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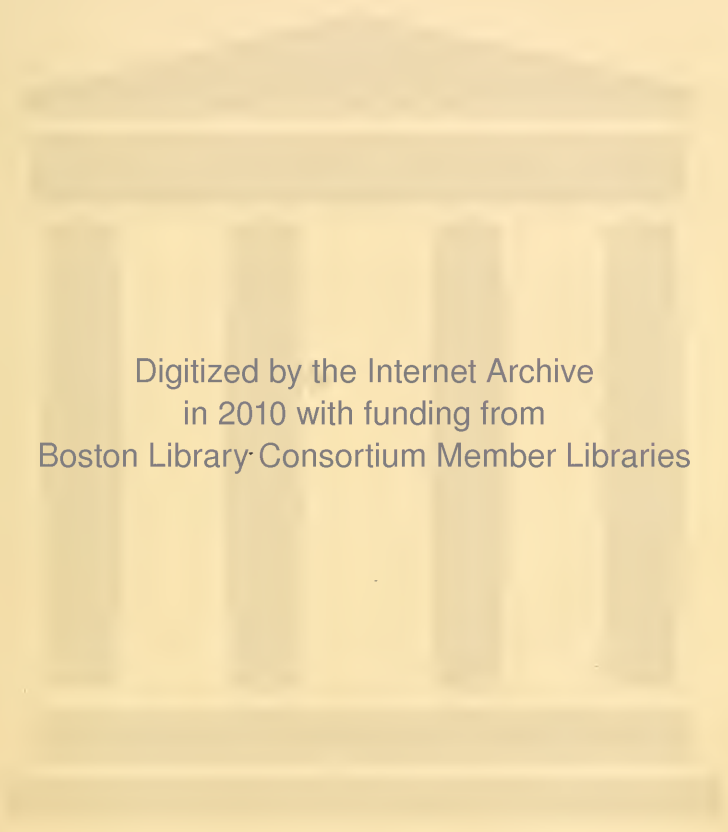
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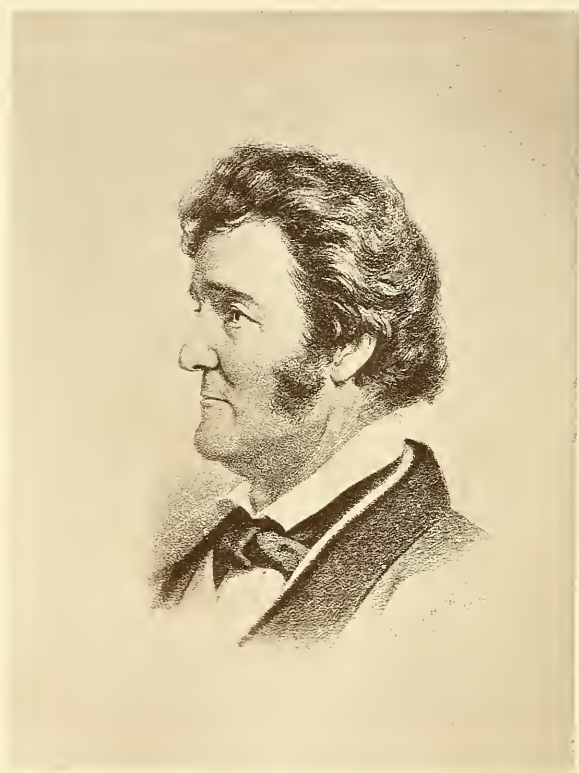
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I am sincerely
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LIFE

OF

JOHN VAN LEAR McMAHON.

BY THE LATE

HON. JOHN THOMSON MASON,

FORMER JUDGE OF THE COURT OF APPEALS OF MARYLAND.

COMPLETED, REVISED, AND EDITED

BY HIS SON, JOHN THOMSON MASON.



BALTIMORE:

EUGENE L. DIDIER.

1879.

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1877

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By JOHN THOMSON MASON

PRESS OF
JOHN A. GRAY, AGT.,
18 Jacob Street,
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TO
THE CHIEF-JUSTICE AND ASSOCIATE JUSTICES
OF
THE COURT OF APPEALS OF MARYLAND,

TO WHOM, EITHER IN THEIR HIGH PUBLIC OFFICES OR IN THEIR PRIVATE LIVES
THE NAMES OF MANY MENTIONED IN THIS BIOGRAPHY ARE FAMILIAR
WORDS, WERE HONORED ASSOCIATES, OR HAVE BECOME THE
CHERISHED MEMORIES OF PAST FRIENDSHIPS,

THIS BOOK
IS
RESPECTFULLY DEDICATED,

IN COMPLIANCE WITH THE KNOWN WISHES
OF THE DECEASED AUTHOR.

NOTE TO THE READER.

IN presenting this little volume to the public, I can only repeat substantially what I stated in my circular to the subscribers to the book, and to whose response thereto I am largely indebted for this result. Six years have elapsed since the death of my father, Judge Mason, the author of this biography, and the delay in producing the result of his labors, undertaken and leisurely prosecuted several years before his death, may possibly have subjected me to the imputation of indifference or neglect in carrying out his plan. But I feel sure that my friends and the public who are interested, and whose generous criticism and kind forbearance I ask for my part in the fulfilment of this duty, will be equally lenient in viewing the reasons for its delay. Many obstacles of a business and financial nature, the hesitancy of publishers to undertake a work of a purely local character, and the great difficulty in supplying a few but very important links in the history of Mr. McMahon's time, made this long delay necessary and indeed almost compelled me reluctantly to abandon it. I must here thank those friends who have aided me by their advice, suggestions, letters, and reminiscences, and thus were largely instrumental in enabling me to proceed. The reader will observe that several references to events and names throughout the book have neces-

sarily lost their original correctness by the circumstances of time elapsed, subsequent deaths, and other changes. I have tried to mark these by marginal notes, but where I have not followed these changes I must trust to the reader's detection and indulgence. These discrepancies necessarily arise with the flight of time, and I have tried to meet them without disturbing practically the original text. Several events in Mr. McMahon's private life I have taken the liberty of adapting somewhat to the opinions and wishes expressed of his family—and which was the intention of the author—without marring their interest or reliability. With these hurried explanations of my part in this book and its presentation, I respectfully submit it to the public.

JNO. THOMSON MASON.

BALTIMORE, August, 1879.

INTRODUCTION.

FEW men have died in Maryland whose death excited so general a feeling of regret and interest, in every class of society, and called forth so universal an expression of admiration for his talents, learning, and virtues, as that of Mr. McMahon. Few men better deserved such a tribute! Yet are we to leave the record of his brilliant talents, his great labors, and his noble virtues to the brief, ephemeral, and imperfect sketches of his life which were drawn forth in the several courts of Maryland on the occasion of the first announcement of his death? Is his history only to be transmitted through the personal recollections of the present generation, and to live entirely in tradition? Is there no abler pen in Maryland to be invoked to do justice to his memory?

The writer of this humble tribute to this departed jurist has been watching since his death for some becoming record of his life and character, or for the announcement of the forthcoming of some such work from hands worthier of the undertaking, but instead thereof, in the busy march of life already his name has ceased to be upon the lips of almost every man, as it was upon the first announcement of his death, and ere long he is likely to share the common fate of lawyers, and, as in the case of his renowned predecessors in the legal pro-

fession in Maryland, the memory of his brilliant intellectual triumphs, his lofty genius, and his irreproachable personal integrity will fade almost entirely from the minds of men, and, like the name of Daniel Dulaney, will soon be "forgotten in his native State, where the unquestioned supremacy of his talents was once the theme of every tongue and the boast of every citizen."

Like his illustrious predecessors and most of his contemporaries, he has passed from the active scenes of the fallible courts of this earth to the solemn, silent, and unerring tribunal of the other world. Mitchell, Taney, Scott, Mayer, Dulaney, Price, Nelson, Chambers, Schley, and Alexander have all gone before him, and, alas! many of them are already forgotten, and all neglected. Although the persons and histories of these men were once as familiar to all classes of our people as the changeless mountains that towered above their heads or the rivers that flowed at their feet, yet already the records of their lives have become so faint and indistinct that the most industrious historian would now be hardly able to rescue them from oblivion. The graves of many of them have not only never received the melancholy reward of a monument, but have even almost been forgotten and lost, and their illustrious names have passed in many cases from the veneration, if not from the memory, of their own descendants. Alas! alas that the fruits of genius, virtue, and labor should so soon perish and be forever lost!

CHAPTER I.

The author's object—Mr. McMahon's unrecorded life and works—Their valuable example to young men—His peculiarities and characteristics—His great modesty, and consequent absence of early notoriety—Contrast to his contemporaries—Difficulties of the biographer.

No character better deserves a well prepared biographical essay than that of Mr. McMahon, and it is hoped that some able pen or eloquent tongue may yet be invoked to perform with calm deliberation this high and responsible duty. In the vain hope of supplying in some degree this omission the present memoir has been undertaken. Unsparing and exclusive panegyric is not the purpose of this humble sketch. Fortunately, in this case the truth may be spoken without a blush, and the weaknesses, errors, and even faults of our departed friend may be laid bare, and while they confirm the rule that to err is human, they will be found to rest for forgiveness upon higher grounds than the mere claims of mercy. It is true for the present generation, no history of this man is necessary. Few men ever lived in Maryland whose life and character were so well known to all classes of our citizens. They stood forth, like a grand portrait, with clearly defined features, before and familiar to every eye, and there are few men of the present generation in Maryland, however humble his sphere of life, that could not give a very clever account of this great jurist and orator. But this is not enough ! His history should be trans-

mitted to generations to come, as a bright and rare example of what labor, talents, and virtue, when combined, may accomplish for the good of mankind and for the elevation of one's self among his fellow citizens.

For one possessed of such an extraordinary combination of intellectual gifts, personal virtues, and natural accomplishments, his life was not eventful or marked by striking incidents, and was even comparatively obscure. The results of his labors were often so remote from their first cause that frequently the author was for the time lost sight of by the world in their fruition of his work. His great professional efforts were rarely reported, often not even known or heard of until their results, and not always then, were experienced in some decision of the courts upon a question of vital public importance, or developed in some public enterprise involving the welfare and advancement of the State, and thus in contemplating the imposing result the eye was often withdrawn from the remote yet controlling cause. He was never obtrusive, yet his modesty could not repress the spread of his fame. Thus it will be seen the difficulties of McMahon's biographer will be greatly enhanced by the circumstance that his labors and intellectual triumphs were for the most part hid from the world, and that unless they are rescued while they are fresh in the recollection of his friends and contemporaries, they must be forever lost. To this may be added that in this case biography has an extraordinary and peculiar duty to discharge. It is no more necessary to record the actual performance of his life than it is to show, as a valuable lesson to posterity, the achievements which he could and ought to have accomplished in life, but yet did not. In this respect Mr. McMahon's character was in striking contrast with that of Mr. Pinkney, Mr. Wirt, and many of

his surviving compeers. They never permitted their labors to go unrequited nor their lights to be obscured under a bushel. They never turned their faces from any way that led to distinction and power nor were content to occupy a position in the background of any scene where they might have stood in the front. McMahon, on the contrary, has rejected the most prominent and alluring positions in the country—has stood back and witnessed others enjoy the rich fruits of his own labor, and was always ready to open the vast store-house of his mind for every brother of his profession to help himself at pleasure.

He was a strange compound of a high order of ambition and of much personal vanity, with a great deal of native modesty and diffidence, and the power of these latter traits has been abundantly illustrated in the splendid opportunities which by their influence he has from time to time suffered to pass him unavailed of, and which would have afforded him an extensive and attractive field for the gratification of those other passions, ambition and vanity, which, though great, were yet subordinate to the more feminine yet more attractive and lovely traits, modesty and diffidence.

As has already been remarked, the mere events of Mr. McMahon's life were neither remarkable nor specially striking, although the lessons to be drawn from them, and from his traits of character, if properly portrayed, would be of great value and imposing interest. The value of biography does not always depend upon great eminence in the subject. Often the lives of the greatest and the best men afford no other instructive lessons than those which may be drawn from every day's familiar observation of ordinary men around us; while, on the contrary, men who have been comparatively obscure in the walks of life as often furnish by

their history the most valuable and instructive lessons for those who are to come after them. In either point of view—whether regarded as a *great* man or one only of striking incidents of life and instructive traits of character—the life and character of Mr. McMahon are deemed worthy of commemoration. This impression is doubtless strengthened by friendship, and by a sense of many obligations, which an intercourse of a long series of years, involving many trials and much dependence upon the wisdom and affection of friends, has generated. In Mr. McMahon's death many losses are combined, but as he had passed his allotted period on earth, and his public career of usefulness had closed, the special loss in his death is to his friends. From them he has passed forward, and no more will they behold his manly form, or grasp his hand in warm affection, or listen to his lessons of wisdom. Thus the friends and examples of our early years are dropping one after the other into the grave, like stars that sink in the west, while those of us who are not yet gone down are already paling before the increasing twilight of the eternal morning, and ere long we shall all stand amid the blaze of that sun which shall know no setting.

CHAPTER II.

His birth and parentage—Early associations—School and college days—
His remarkable record as a student.

JOHN VAN LEAR McMAHON was born in the town of Cumberland, Maryland, on the 18th day of October, 1800. The house in which he was born is still standing, and is the frame building at the corner of Green and Smallwood Streets. His parents were Irish Presbyterians of culture, of the highest respectability and integrity. His father, William McMahon, was deservedly one of the leading men of Alleghany County, and of great individual popularity. He possessed a handsome and attractive person with manners and address the most engaging. He represented Alleghany several times in the Legislature, at different periods of his life, and was once the sheriff of the county. His life, however, was mainly passed in retirement and industry, doing good, and receiving in return the homage of his neighbors.

It would seem that the name of his son was originally simply *John McMahon*, from the fact that it is thus written wherever it appears in connection with his earlier life. During both terms of the Legislature while he was a member from Alleghany, he was known and always recorded as John McMahon. The addition of *Van Lear* was evidently subsequently adopted in compliment to his kinsman John Van Lear, a respected and prominent citizen of Washington County.

He was the only son of his parents, though he had several sisters. His mother died when he was little more than an infant—at the age of about seven years. He had, however, even at that early age, developed traits of character and mind which impressed his sagacious mother with a foreshadow of his future excellence and greatness. Upon her death-bed, and but a short time before she expired, she summoned her husband and her son to her side, and placing her feeble hand upon the child's head, addressed her husband thus: "Mr. McMahon, I charge you, whatever else you may do, take especial care of the moral and mental cultivation of this our only son, for I hope and think that if you do he will become a great blessing and comfort to you and his sisters."

This touching incident is related upon the authority of one who still lives, and whose experience illustrates how fully and faithfully the early predictions of her mother about her son were fulfilled in his subsequent devotion to an aged father and dependent sisters.

From his earliest infancy he was a vivacious and sprightly child, social and even jovial among his companions. He was apt at learning and very remarkable for the faculty of memory, a trait which adhered to him, as will be shown, though his whole life. His preparatory studies were pursued in the "Alleghany County Academy," at Cumberland, under the direction of the Rev. Robert Kennedy, a Presbyterian clergyman of the old straight-laced school. In connection with his duties as principal of the Academy, Mr. Kennedy preached on Sundays. He came one Monday to the Academy at an unusual and an unexpected hour. Hearing something unusual going on, he quietly and unobserved entered a private door, when to his surprise he found his scholars playing "*church*" and Mc-

Mahon in the rostrum preaching most vehemently to his youthful but attentive congregation. Mr. Kennedy's ear was at once caught by something that was familiar to him, and immediately he recognized his own sermon that he had preached the day before. He paused, listened, and to his great astonishment heard the whole sermon repeated almost verbatim, and withal delivered with a very pleasing and impassioned elocution. The old parson, so far from being displeased, was on the contrary highly gratified at this little piece of disorder. After the performance had ended he approached the boy and inquired how and why it was he had committed his sermon to memory—that there must have been something in it which especially attracted his attention. “But,” continued Mr. Kennedy, “you cannot come to church next Sunday and after listening to my sermon repeat it to me the next day?” Young McMahon accepted the challenge, and on the next Sunday he was early in his father's pew, an attentive and eager listener to the discourse of his reverend preceptor. On Monday he met the test boldly, and repeated the whole sermon with such ease and accuracy that Mr. Kennedy was utterly astonished. He was at this time not fourteen years old.

Having taken a full academic course under Mr. Kennedy, who was not only a scholar but an excellent teacher, young McMahon was sent to Princeton College, where he graduated in September, 1817. Here he first developed the talents and industry which in after life made him so pre-eminent among his fellow men.

That excellent and learned man, Rev. Dr. Ashbel Green, was then the president of the college. He conducted in person young McMahon's examination for admission. He did not hesitate to pronounce him fully

qualified to enter the junior class, but owing to his extreme youth, being at the time only fourteen years old, Dr. Green advised him to start with the sophomore. His excellent preparations, his studious habits, and, above all, his natural powers of mind, made the studies of his classes an easy work. During his whole collegiate term Dr. Green continued to manifest a great interest in him, and as he was correct and moral in his habits and of even a religious turn of mind, his reverend friend did not hesitate to assign him to the Presbyterian pulpit and predict for him a brilliant and triumphant career in the ministry.

For many years after he graduated, his footprints were still visible amid the classic walks of this ancient and renowned institution, and many were the traditions which were handed down from class to class, by professors and citizens, illustrative of his genius and fidelity to his college duties. It was told of him that he never missed a recitation, a prayer, or any other college duty. He thus subjected himself to the jeers and jealousy of some of his school companions who were less attentive to their obligations, and in order to defeat his purpose to go through college without a demerit mark, some mischievous boys, to prevent him from attending early prayers, on one occasion barred him so securely in his room that it was impossible for him to get out through the door. But he was not thus to be thwarted in his purpose. After exhausting every ordinary means to escape from his confinement, he at length fell upon the expedient of tying his bed-clothes together, and securing one end of this improvised rope to a heavy article of furniture, he let himself down to the ground from his window, and triumphantly though good-naturedly entered the chapel in time to respond to his name. Such a display of energy in prosecuting

so noble a purpose could not but be a harbinger of future success in life, and when coupled with his superior natural gifts we need not wonder that this unknown boy should become the distinguished man. He graduated perhaps the youngest member of his class, with the first honors of college.

A distinguished Virginian, Mr. Edmund J. Lee, thus writes: "You are right in your impression that I was a classmate of J. V. L. McMahon. We graduated in 1817—he taking the first honor. He was so close a student that there was no great social intercourse with his fellow students on his part. He never in our hours of relaxation participated in any of the games resorted to for exercise or amusement; and I remember that during the senior vacation he boarded in town, and could be daily seen, slip-shod, walking from his boarding house to the college library and returning with an armful of books. He would then take a seat in the shade and read the entire day."

CHAPTER III.

Admission to the bar—Youthful hopes and disappointments—Leaves Baltimore in disgust—Abandons the law and tries medicine and theology—Incidents of other prominent lawyers.

HE at once entered upon the study of the legal profession in Cumberland, with the same zeal and industry that had marked his college career. His legal preceptor was the late Roger Perry, Esq., in his day perhaps the leading member of the Alleghany bar.

As soon as he had been admitted to the bar, he removed to Baltimore and opened his office. Flushed by his college successes, and to a certain degree inflated by the vanity which unsparing domestic and provincial praise had produced, he expected at once to enter the first ranks of his profession, or at least to be awarded the position to which he supposed his talents and acquirements entitled him. He entirely forgot that he was but an unknown boy, and a stranger in a large city. He was disappointed. But nevertheless, to the more discriminating his claims to success were soon made evident, and at a very early day he was by many recognized as a “rising young man.”

Notwithstanding his great intellectual accomplishments and personal attractions he was tabooed to a certain extent by an element of society for eccentric and uncouth manners and perhaps carelessness of dress, and certain members of his profession sneered at him

at first who in after life were too glad to follow after him and gather up the drippings from his overflowing brain or to bask in the sunlight of his reputation.

Under some real or imaginary neglect or indignity from the bar and the bench, or from what he supposed was a want of a due appreciation of his merits by the community, he left Baltimore in disgust, after a brief sojourn of less than two years, and returned to his native county.

His chief practice, as was the case with most young lawyers in our earlier history, was in the criminal court. His impetuous temper and proud nature led him into frequent difficulties with the court, and on one occasion into a personal altercation with the late Judge Brice, one of its members. And from this circumstance the ostensible reason assigned by his friends and perhaps by himself for his abrupt departure from Baltimore was that he had "lost the ear of the court."

Whether this charge was true or not in this case it is not deemed necessary to inquire at this late day. Certain it is that often it is well sustained, and in too many instances we have known young men, who otherwise might have risen to distinction, for this cause to be driven from the bar altogether or consigned to labor through a long period of their lives under the almost insupportable burden of the court's disfavor. Let it be known in a community that the court is adverse to any particular member of the bar, and it will need an immense amount of talents and learning, and which few possess, to overcome the influence of such hostility. While the courts should always be treated with respect and veneration under the assumption that they merit such honor, still when they forfeit that claim they should be reminded of their shortcomings, although there are few who have the courage or the dis-

interestedness to perform such a thankless duty. Mr. McMahon was of this latter class, especially in his earlier years, and it may therefore be reasonably supposed that the tradition to which reference has been made was well founded, and that to some extent at least he was driven from his profession by the austerity of the bench and by the subserviency of the bar.

These disclosures afford a sad commentary upon the weakness of human nature, and illustrate how delusive is the general theory which imputes to judges and courts immaculate purity and unswerving impartiality.

As regards sympathy and support from the members of the bar, Mr. McMahon in his youth received none. Nor was his case in this particular a rare one. Young lawyers starting in life, especially clever ones, count without their host if they expect to be raised to practice by any actual aid from their professional brethren. They may receive from some courtesy and fair dealing, but from others, and perhaps a majority, they will experience nothing but meanness and injustice, and often from those who make the greatest ostentation of magnanimity and generosity. The legal profession is no more exempt, as many assume, from the universal law of selfishness than any other pursuit, and while many a young lawyer has been raised to success and prominence by the influence of family and friends, yet he should always start on his rugged and toilsome professional career with the conviction on his mind that success and honor can only be attained by a bold and indomitable reliance upon his own unaided efforts. But this virtue of self-reliance is attainable alike by all, and unhappily we often see by its aid the vulgar, the ignorant and unprincipled rising above and triumphing over talents, learning, and integrity.

Returning to Alleghany with his over-sensitive and

morbid spirit deeply wounded by the real or imaginary wrongs or slights he had met with while in Baltimore, in a moment of disgust he abandoned the law and studied medicine. If he supposed that the ills of which he complained were inherent in the legal profession, and that he would escape them by joining the medical fraternity, he was greatly mistaken. In turn he soon became disgusted with medicine as uncongenial to his tastes and the temper and turn of his mind. He next devoted his attention, strange as it may now sound in the ears of his latter-day friends, to the study of divinity. His father and family, as has been before remarked, were strict Presbyterians, and he had received both at home and at college a rigid religious training. To this cause in part, but perhaps more to his own convictions that he possessed a high degree of oratorical powers, can be attributed what may now be styled this eccentric movement. How far he pursued his theological studies we are not able to state, but that he did actually enter seriously and deliberately upon this field of science is affirmed upon his own authority.

Whoever knew Mr. McMahon will at once realize what an inappreciable loss the Presbyterian Church sustained in his final abandonment of his purpose to become one of its ministers and preachers. As eloquent and profound as have been the clergymen of this denomination, it may well be doubted whether any of them ever attained an intellectual position so high that McMahon would not have surmounted it, had he adhered to and vigorously pursued his determination to make theology his profession.

This circumstance suggests a remarkable coincidence—that the bar of Baltimore should have appropriated to itself, about the same period, no less than three

promising young men who had been dedicated to the Presbyterian Church, and whose loss to the church may be measured by their subsequent great and honorable achievements at the bar. They were all educated at Princeton, and two of them expressly for the ministry. One still survives.

To show the unsettled condition of Mr. McMahon's mind at this period, and the despondency of spirits under which he was then laboring, it is mentioned, on the authority of his early and continuous friend Mr. David M. Perrine, that learning that he (McM.) was contemplating a removal from Baltimore he called at his office, which was then in an humble basement on Monument Square, to remonstrate with him against such a step. He was found greatly depressed and disturbed. He spoke as if he regarded his efforts in the legal profession as a failure, and expressed his determination to abandon it. In vain did his friend urge him to stand fast yet a little longer—in vain did he promise him brighter skies and happier and more successful days. But this excellent advice availed not—his mind was made up to leave Baltimore and to abandon the law. "What then," inquired Mr. Pennie, "do you propose to do?" His reply was: "My present purpose is to devote my life to writing novels—to works of fiction!"

This state of mind associated with his subsequent determined purpose to turn to the law, and the great success which ultimately crowned his efforts, should furnish a lesson of inestimable value to all young men who may languish and at last fall under the weight of disappointment and corroding mortification which often attend their early professional failure. This anxious state of probation when properly considered and availed of is an advantage rather than a calamity to a young lawyer. It affords him time for study and preparation

for the great struggle he is about to engage in, and without which he is in danger of a greater source of mortification and failure than mere want of practice—in defeat by better trained opponents. The late Mr. J. T. Mason* used to affirm that it was an actual disadvantage rather than a benefit to a young lawyer to fall at once into a full practice, and cited his own case as an example. For three long, weary years, a stranger in the community and in the State, he sat in his office, almost crushed by the weight of despondency, before he got a client. But this time was not misspent in idleness or dissipation. When at last a client did come he was fully prepared for every emergency which his case might present, and this one client led to as large and lucrative a practice as any man in Maryland ever enjoyed.

Another eminent lawyer of our State, now no more, in speaking on the subject used this strong language: “For a young lawyer to start in his profession with a large business is an actual calamity.” Our own Mr. Reverdy Johnson also has given some quite amusing incidents of his own early experience and difficulties at the bar, incidents amusing in reminiscence, but at the moment deep mortifications and corroding sorrows! Time greatly changes the lines of the events of our lives. Sorrows of the moment are by time often changed into pleasant memories, while on the other hand the recollections of joys lost, never to be found, as often bring, by the contrast with present gloomy surroundings, an aggravation of unhappiness and sadness. It is stated upon authority that so great a failure was Mr. Johnson’s first effort in court that he shed tears over it, of mortification and chagrin! and that

* Father of the author of this biography.

at another time, soon after, he was called on for a written opinion on some legal question ; it was prepared and handed to his client, and the moderate charge of five dollars made. The client, like the majority of the world, no doubt looking more to outward appearances than real merit, turned the soiled and scratched piece of paper around and around, and, without reading it, contemptuously remarked, " Ain't this a pretty piece of paper to pay five dollars for ?" Of Mr. Alexander, another of Maryland's most distinguished lawyers, it is told that his early efforts at the bar were a succession of failures, and nothing but the spirit of perseverance and courage which marked his whole life enabled him to surmount these early difficulties and led him to the front rank of his profession. Let all young lawyers in their hours of disappointment and despondency call to mind these examples of heroism and take courage from them.

CHAPTER IV.

Return and devotion to the law—His immediate success and distinction
—Enters politics—Reminiscences of legislative experience to 1823—
The Jackson excitement.

MR. MCMAHON finally returned to his first love, the law, with renewed energy. His previous inconstancy to this mistress, who held after all the first place in his affections, seemed to awaken a kind of remorse, and for which by a strict and chivalric fidelity through his whole subsequent life he sought to atone. This mistress never had cause afterwards to be jealous of her lover. He at once resumed the practice of the law, which he pursued assiduously at Cumberland, and with immediate and great success. The people of Alleghany could not be made to believe he had his equal in the State or nation, and he soon ranked among the leaders at the bar in the western section of the State.

Possessing wonderful fluency of speech and a commanding personal presence, he was not insensible to the power that these rare gifts would bestow upon him in the field of politics, and, allured by the seeming attractions of public life, he very early offered himself a candidate for the Legislature. Unaided by the modern invention of caucus or convention or any other such influence, he threw himself directly upon the favor of the people in their unrestrained power, and although little more than a mere boy, the charm of his eloquence, the boldness of his nature, the attractions of

his person, and perhaps above all the odor of honesty which through his whole life has hung around him, carried him triumphant over his older and oft-tried opponents.

Before his first election to the Legislature his reputation as an orator had preceded him in the east, in well defined and incontrovertible evidences. Doubtless the first time his name was ever mentioned in Annapolis was under the following circumstances: In the year 1823 the late Rev. Dr. Davis (his son, better known than himself, was the late Henry Winter Davis), then President of Saint John's College, made a visit, during his summer vacation, to the "west," which at that time hardly extended beyond the Ohio. Reaching Cumberland, fatigued and tired, he expressed a wish to his landlord to take rest and sleep. Before going to his chamber, being an observant and inquiring man, he asked if anything of interest was to be seen or heard in town. The landlord gladly responded that there was—that there was to be a public meeting at which young McMahon was to speak, his countenance glowing with such exultation as he mentioned the name, as to awaken a desire in Dr. Davis to hear him. "When the meeting organizes, awaken me," said he, and then retired to take his nap. The landlord was too glad of an opportunity to spread the fame of the youthful orator, and promptly at the hour called the Doctor. He listened to several speeches before McMahon's turn came. To the gentleman to whom he was relating the incident after his return home, the late General Harwood, he broke forth in an excited and enthusiastic strain: "Sir, I never was more astonished—a mere stripling of a boy! I never before had heard such fervid eloquence. Sir, he moved me—he moved me as I never was moved before!" and he thus continued in

extravagant praises for several minutes. No higher authority of excellence, no more valuable tribute could be paid to genius than this example furnishes, coming as it did from a man possessed of such great learning, culture, and taste. Nor did his encomiums end here. He so spread the fame of the young mountain orator among the students under his charge that when at last McMahon came to Annapolis to take his seat in the Legislature, the boys of the college, impressed no less by the reputation their President had given him than by his peculiar and unique dress and manners, ran after and gazed at him with wonder and astonishment.

He made his appearance in Annapolis, when he first came to take his seat in the Legislature, absurdly dressed in the guise of a mountain huntsman in a linsy-woolsey shirt, and he also affected a primitiveness and uncouth manner which indeed was no part of his nature. As the winter progressed and his acquaintance and his intercourse with the members of the other parts of the State increased, the affectations and vanities gradually subsided, and before the session had ended, the native simplicity of his heart had entirely resumed the control over his manners and conduct, and he became not only a prominent and even leading member of the House, but also very popular with the members of all parties and sections. Even his prejudices and animosities towards Baltimore had in part if not wholly been overcome by his constant intercourse with gentlemen from that city, and he at last was brought to the belief that he was more highly appreciated in Baltimore than he had ever before supposed.

During his first term in the Legislature, the first public step in behalf of works of internal improvement were then taken. Mr. Benedict J. Semmes, of Prince George County, on the 3d day of December, 1823,

moved that a committee be appointed to prepare an act of incorporation for the Chesapeake and Ohio Canal Company, which has since grown into reality and into such immense proportions and importance, but which then was supposed by most persons, to exist only in the imaginations of visionary men. The committee was ordered, and it may not now be uninteresting to enumerate the names of that committee as the original producers of this great enterprise. It consisted of B. J. Semmes, of Prince George; Athanasius Fenwick, of St. Mary's; Wm. Stewart, of Baltimore City; Jas. J. Merrick, of Washington; John Edelen, of Charles; Dan'l C. Höpper, of Queen Anne; J. V. L. McMahon, of Alleghany; Wm. Riley, of Worcester; and Jno. R. C. Chesley, of Calvert. Immediately thereafter Mr. McMahon offered the first petition or memorial ever presented to the Legislature praying aid for this great work. Thus it will be seen that Mr. McMahon was one of the first as he always continued to be one of the most steadfast and efficient friends of our great works of internal improvement.

Previous to 1823, Democratic nominations for President and Vice-President were usually made by a Congressional caucus. National conventions were unknown. It had been ascertained that a majority of the Democratic members of Congress were in favor of the nomination of William H. Crawford, of Georgia, for President in 1824, and that he would probably be nominated. The Maryland Legislature of that period were decidedly in favor of Andrew Jackson for the Presidency, and in order to defeat the advantage which Mr. Crawford would acquire by a Congressional nomination, they early took strong grounds against the whole system of caucus nominations. Accordingly a number of resolutions were passed by the Legislature of that

session, one of which was that "*the Legislature of Maryland will view with concern any attempt to control the election of President and Vice-President of the United States by means of a Congressional caucus.*" Mr. McMahon, being an original friend of General Jackson, was prominent in the advocacy of this measure. It led to his first but by no means the least eloquent and able of his speeches. It was the first blow that led to the death of the Congressional caucus system. These resolutions, having been directed to be sent by the Governor to our members of Congress, led to a sharp and angry retort from two of them, namely, Edward Lloyd and William Hayward, Jr.

The reply of Hayward was caustic in the extreme, and the point of which was, *You mind your own business and I will attend to mine.*

The Jackson members of the Legislature flared up into an indignant rage, and young McMahon undertook the response to what was deemed the disrespectful and insulting letter of Mr. Hayward. As soon as the communication was reported from the Senate, to which body it had been first submitted, McMahon responded in a message to the Senate characterized by great bitterness and sarcasm, amounting almost to coarseness and want of dignity. He spoke "of acts of a private and unofficial character which have been surreptitiously invested with the garb of official dignity." He went on to say that had this communication been submitted directly to the House instead of the Senate, "it would probably have met with that reception from us and found that place in our hall due to its intrinsic merit and delicacy, *a place under our table.*" He also spoke of the "*flagrant and atrocious usurpations*" of members of Congress; and that he could see in such a reply of Mr. Hayward nothing but "a vain attempt to cast the cloak over his illegal assumptions."

This message was a very lengthy one, and many attempts were made to pass substitutes or amendments by way of tempering its violence, but in vain. The majority of the House was in such a temper of mind that they would not permit any alteration to be made to this intemperate document, and finally passed it by a large majority. The Senate, being influenced by more moderate counsels, passed resolutions of their own, which were more dignified and respectful but equally decided and pointed.

One of the effects of this controversy was that Mr. Hayward was consigned to private life, and never again held official position, and another, already mentioned, was that the Congressional caucus system was entirely and forever overthrown ; whether for good or evil it is not now necessary or pertinent to consider.

He represented Alleghany for two years, namely, 1823 and 1824. In the latter year he was made chairman of the Committee of the Judiciary. In view of the fact that he was the youngest man in the House, this appointment to so responsible a post may well be regarded as a most distinguished compliment. Of all those who were associated with him in those early and virtuous days of our own State only three venerable citizens survive—Hon. Reverdy Johnson, who was a member of the Senate, Thomas Hope, and Dr. Washington Duvall.* Millard, Lockerman, Lloyd, Fenwick, Merrick, Semmes, Kennedy, Sprigg, Wootton, Peter, Thomas, Bowie, Chambers, Rice, and the many others whose names during that period shone so conspicuously and honorably in the public councils, have all passed away, and, alas ! their memories have almost entirely faded from the minds of posterity.

* All since dead.—J. T. M., JR.

CHAPTER V.

Important legislation—The session of 1823-24—The "Jew Bill"—Thomas Kennedy and McMahon—Memorable measures and speeches.

DURING this period, the sessions of 1823 and 1824, the "Jew Bill," as it was familiarly called, was attracting general attention and producing considerable feeling in the State. In our early days, strange as it may now sound, Israelites were disfranchised by the constitution, on account of their religious faith. Without any political influence to purchase or reward legislative efforts in their behalf, the Jews yet found friends to come forward as their champions, in defence of religious liberty, and chief among these were McMahon of Alleghany and Thomas Kennedy of Washington. The foundation of this movement was commenced and partially laid by the latter, the bold champion of liberty in every form. But with all Mr. Kennedy's zeal and influence, he was yet unable to perfect this great and favorite work, the enfranchisement of the Jews, and it fell at last into the abler hands of McMahon.

It is a great blur upon the history of Maryland, honored as she has always been as the first to establish religious freedom in the States of America, that there should be found among her people, at that late day, men who bitterly opposed this measure of liberty and justice which is so consistent and congenial with the theory of our free institutions. But such was the fact,

and it required all the energy, eloquence, and power of McMahon to overcome this hostility. He did succeed, and was amply rewarded by the gratitude of this persecuted race.

On the contrary, the memory of the pioneer of this great work, Thomas Kennedy, the first and able champion of the movement, has never received from the Israelites of Maryland the reward which was justly due for his efforts in their behalf, and his remains now sleep in obscurity, without any monument to commemorate his public services and his private virtues. If the manly and eloquent speech of Thomas Kennedy delivered in the Legislature in support of this favorite measure—Jewish emancipation—could be brought to the notice of the Israelites of Maryland in their present free and improved condition, it may be safely affirmed that they would take some steps to rescue the memory of their early friend and champion from neglect and total forgetfulness.

Mr. McMahon's elaborate speech on the "Jew Bill" is still extant, and is an able, profound, and classic production. At this late day it could be read with profit by bigots who are seeking once more to revive the spirit of religious persecution and to deprive citizens of political equality because of their religious faith.

The reprint of the entire speech is precluded by its great length, but so little of the forensic arguments and eloquent orations of this great man have been preserved, especially those of his maturer years, that we are tempted to make some extracts from the speech before us, which is among the earliest productions of his life, having been delivered before he was twenty-four years of age.

The force of the extracts which are submitted is weakened by their segregation from the main text. They

are given only as samples of the whole, and to furnish evidence of the power, statesmanship, and cultivation of their youthful author. He opens his speech by a reference to his extreme youth in this language :

“ If my esteemed friend, the gentleman who last addressed you, has had cause to tremble for his temerity in approaching with youth and inexperience a question at whose feet the stores of hoary-headed experience and the dictates of learning and wisdom have so often been laid in this House and elsewhere, with how much fear and trembling, with how much humility should I, upon whom these incumbrances hang doubly heavy, approach and present my little but heart-bestowed offering.”

The bill, as may have been expected, finally passed, and became the subject of warm applause in the papers throughout the Union. So far as the public journals were a test of public sentiment, there did not seem to be a dissenting voice abroad as to its justice, its propriety and policy. A few narrow minded and bigoted papers of our own State still continued to growl and protest against the measure, but very soon their voices were lost in the general approval of the wisdom and magnanimity of the Legislature.

From the history of this case let the men of the present day learn that the old system of the Procrustian bed, which lopped off from those who were too long and racked those who were too short, is going out of vogue. Let men find that the less they interfere with the consciences of each other the better it is for all. Religious faith can never be controlled by force.

At this session (1824), great commercial and financial distress pervaded the whole State, and numerous petitions poured in upon the Legislature, praying for some relief. These petitions were referred to a special com-

mittee of which Mr. McMahon was chairman, who subsequently made a report upon the subject. This matter is referred to not that it has any special interest to men of the present day, but to show by a brief extract from his report the vigorous and statesman-like view which he took of the subject, and the sound philosophy of government with which he was imbued, even in his youth, which is equally as applicable to the present as it was to the past. He said :

“Great respect is undoubtedly due to calls for aid or relief, preferred by every class of citizens, but more especially to those of the agricultural portion of the community.

“Yet in this instance, as in many others, there is reason to fear that the proper apprehension of consequences of untried and even dangerous measures is swallowed up in the sense of existing grievances, and that a desire to get rid of the present drowns all fears as to the future.

“It seems, however, to be the wiser doctrine that we should rather bear the ills we know, if not altogether intolerable, than fly to those we know not of. There is scarcely any plan or system of relief which legislative wisdom can devise which may not have the tendency to plunge us deeper into misfortune and despondency, whilst its probable operation in exhorting us to a state of individual and national prosperity is just as questionable as that of the system under which we now live. . . .

“Your committee cannot but regard the dark picture of individual distress which stands in such high relief upon the face of the petitions as drawn with that license common to poets and painters which permits the use of high coloring for the sake of effect. The present condition of our country should furnish no matter for surprise when we advert to the fact that the whole community has for years past been sustained in a state of unhealthy and unnatural excitement by the application of inordinate stimulants, which, whilst they influenced the body politic, upheld it in a bloated and diseased state, which might at first view have been mistaken for a state of health, but which, when more closely approached, was found to be the work of decay. These stimulants have been removed, and the necessary consequence has been the prostration of all the various interests of the State.”

These views show that the less legislation in every department of our government which we have, the better for the general prosperity—that legislation is to be resorted to only as a means to protect our citizens from oppression, fraud, and crime, and not, as is now the openly avowed purpose of government, to secure to a few advantages and privileges by which they may extort contributions, it may be covertly and indirectly, but none the less certainly, from the masses.

At the end of his second term in the Legislature as a representative from Alleghany, he announced his purpose to remove to Baltimore and not again to be a candidate. But he supposed he had an account to settle with his constituents, for some malcontents had taken him to task for his vote and advocacy of the measure for increasing the representation of Baltimore City in the House of Delegates to equal that of the counties—in other words to give the city *four*³ delegates instead of two, which it then had. This was the only ground of complaint which was suggested against him. A public meeting was called (17th Sept., 1825) at Cumberland, as was stated, that he might give an account of his stewardship. It was a large meeting, and he made an exceedingly able and happy effort, which was entirely directed to his vote upon the Baltimore question. This is one of the few of his speeches that is preserved, and its publication, were it consistent with the plan of this sketch, would greatly enhance its value and interest.

In this speech he inveighed with power against local prejudices, which the narrow-minded and short-sighted framers of our several constitutions, even in latter days, have so much promoted by localizing our officers and representatives and by restrictions upon the right of

the people to select them without regard to locality or place of residence. Thus he continued :

“ But what, after all, he would ask, was this dreaded Baltimore influence ? What was Baltimore influence, but Maryland influence ? And what was Alleghany influence but Maryland influence ? Are our interests not only distinct, but even opposed to each other ? If so, we should separate from each other—we should no longer be brethren of the same family.”

He expressed the increasing prosperity of Baltimore City in the following glowing language :

“ When the constitution was formed, she was but a fishing village upon which the metropolitan City of Annapolis looked down with some degree of contempt as vastly inferior both in natural and acquired advantages. Now her name has gone forth to the whole earth, her commerce whitens every sea, her inhabitants traverse every land, and your treasury hangs upon her breast for its very sustenance. The golden belt of your State is she. Your fathers did not then see or could it have entered into their minds to conceive of that which we see and which seeing we disregard. Had they beheld her in this her day, believe you they would have denied her the pittance she now asks—an equal representation with your own county ?”

Again in connection with the same subject he asks :

“ Is justice of yesterday or to-day ? or is it not the same yesterday, to-day, and forever more ? Is she but the slave of expediency, or the tool of parties, or does she now sleep ?”

In concluding his speech of vindication, and before retiring, he begged to propose to his constituents the following question :

“ Had his general conduct as their delegate been worthy of himself and satisfactory to them ?” upon which he requested their vote.

Mr. McMahon then left his stand, and Roger Perry, Esq., advanced to it and put to vote the question proposed by Mr. McMahon, upon which there was an unanimous vote in the affirmative.

Singular enough, however, this same gentleman, Mr. Perry, then the head of the Alleghany bar, the very next week announced himself as a candidate to succeed Mr. McMahon, and pledged himself that "if elected he would oppose the alteration of the constitution allowing to the city of Baltimore two additional delegates to the General Assembly."

CHAPTER VI.

Progress at the bar—The great Jackson movement and McMahon's active part—J. Q. Adams' Brilliant speeches and a duel—Remarks on Duelling—Close of his legislative experience—His early farewell to public office.

HE immediately thereafter took his leave of his birth-place, his home, and his friends, and opened his office once more in Baltimore City, but under far different auspices than before. His reputation as an orator, a statesman and lawyer had preceded him, and he had in a great degree disrobed himself of his boyish follies and eccentricities, and consequently he was at once awarded a position among her first citizens.

He came to Baltimore about the time that that mighty man Andrew Jackson, as a statesman, was emerging from comparative obscurity and was making rapid progress towards the highest place in the country and in the hearts and affections of the people. His romantic history, his military services, his patriotism, his courage, his honesty of purpose, drew around him hosts of friends, especially among the young men of the land. The chivalric and enthusiastic nature of McMahon had previously attached him to the banner of Jackson, and it may be said without the fear of contradiction that no young man in America contributed more largely by the fire of his eloquence and earnestness to the triumph of General Jackson than the youthful Mc-

Mahon. To him was attributed, no doubt correctly, that famous and inspiring stanza, beginning :

“ Freeman, cheer the hickory tree,
Its boughs in storms have sheltered thee !
O'er freedom's land its branches wave,
'Twas planted on the lion's grave !
Firm, united, let us be,
Rallying around the hickory tree !”

These thrilling catch words were inscribed upon almost every banner, headed the columns of almost every Jackson paper throughout the country, and was the talisman by which the Jackson ticket everywhere was voted with such enthusiasm. Few rustic orators ever closed their rude outbursts in favor of Jackson without quoting these inspiring lines. The popular addresses of Mr. McMahon during this excited political contest for eloquence or vigor were unsurpassed in ancient or modern times. It is doubtful whether Demosthenes or Henry, in *their* respective palmiest days, ever succeeded in arousing the fire of enthusiasm in their hearers to a greater degree. His voice was wonderful in power and volume, and equally musical and rich. He was tall and erect in person and graceful in manner, with enough of peculiarity or eccentricity in all that he did and said to rescue him from the semblance, even in any other particular, of a commonplace man.

To this extraordinary combination of physical gifts, so essential to excellence, he possessed even in a higher degree every quality of mind which was necessary to the perfect orator ! His judgment, common sense, and knowledge of human nature were profound ; his powers of imagination were rarely equalled, if ever excelled ; in wit and humor and repartee he abounded ;

but above all he was distinguished for his ready command of language. He never hesitated for a word, and rarely ever used any but the right one. His figures of speech were for the most part drawn from familiar subjects around him, and were therefore susceptible of appreciation from all who listened to him, and his language, though chaste and vigorous, was always simple. He abounded in well drawn anecdotes, most of which were the creatures of his own fancy, and used as the best and most captivating way of illustrating and enforcing his subject.

It was during the period of which we speak that John Quincy Adams, then President of the United States, and a candidate for re-election, on his way to Washington was stopping at Barnum's Hotel in Baltimore. It happened that on that very evening a Jackson meeting had been called in Monument Square, which, as is well known, is in front of the hotel. McMahon was to address the meeting, and consequently a large crowd had assembled. Mr. Adams and David Barnum, unnoticed by any one, quietly took seats at a window, where they could hear and see, unobserved, all that was going on. Mr. A. listened with profound attention to Mr. McMahon's speech. He was too old and too wise a politician to wince under the powerful invectives that were poured out upon him, but when the address closed he turned to Mr. Barnum and remarked: "I have listened before to many popular speeches, but have never in all my life heard anything to equal this effort."

During the bitter political excitement of this period Mr. McMahon was involved in a personal altercation with the late John S. Tyson, which resulted in a duel. Mr. Tyson was at the time a young lawyer of considerable promise, and was a Quaker, or at least belonged

to a prominent Quaker family. From this latter circumstance it was supposed he would not fight. In those days *gentle fighting* of every kind was more in vogue than at present, and many young gentlemen supposed they could take liberties with Mr. Tyson with impunity, and some even said he could not be *tricked* ⁺ into a fight; and it seems Mr. McMahon so thought and acted, but found himself mistaken. Mr. Tyson was Mr. McMahon's opposing candidate for the Legislature, and, while the former was haranguing the crowd, charged the father of the latter with having been an *Orangeman*. In those days it was not considered so much of an honor to belong to such an association as it is at present, and Mr. McMahon's Irish blood, although it was also colored by Presbyterianism, fired under this imputation against his father, which he resented by kicking Mr. Tyson on the stand. A correspondence ensued, a challenge passed, and a duel was arranged to come off in Virginia. Upon the first meeting, and before the preliminary arrangements were settled, the police pounced down upon the parties, when principals, friends, and surgeons fled in confusion. In their haste to escape arrest, by an unlucky accident the two principals found themselves the sole occupants of the same carriage, and in this awkward and incongruous association they travelled for miles. It may well be imagined that no pleasant conversation or agreeable intercourse marked this extraordinary jaunt, nor had it the effect, as might well have been hoped, of paving the way to a reconciliation. On the contrary, the untoward circumstance seemed rather to sharpen the appetite of both for a personal conflict, and accordingly another meeting was soon arranged and the parties exchanged shots.

The bullet from Mr. Tyson's pistol was arrested in

+ tricked?

its deadly course by the trigger guard of his adversary's pistol, and thus undoubtedly was his life saved. Had Mr. McMahon perished in this encounter he would have gone to his premature grave with probably this only passing tribute to his memory—that a brilliant young man had fallen in the blossom of his promise, and long ago he would have been forgotten by the world.

But neither was injured, and the quarrel was adjusted and amicable relations were restored, which continued through their lives.

Notwithstanding both parties acted with gallantry, the newspapers and individuals were disposed to cast ridicule upon the affair, because no blood was shed. It is a very common practice among newspapers—too often the perverters and corruptors of public sentiment—to ridicule affairs of honor, as they are styled, where they terminate without the shedding of blood or are adjusted in advance upon amicable and just terms. As ridicule and contempt are the most dreaded of human judgments, so nothing as often leads to sanguinary conflicts or prevents the honorable adjustment of private quarrels as this fear of incurring them by the settlement of personal difficulties without bloodshed. On the contrary, if death or serious wounding is the result, with a strange inconsistency these same parties raise a doleful howl against the barbarous and brutal practice of the dule, as shown in results which they have so materially contributed to produce.

No man who professes and practises the Christian faith can ever become involved in any way in a duel, except as a medium to prevent it. The sublime teachings of the Saviour point to forgiveness and forbearance as the rule for those who wish to follow Him and his precepts. Indeed it is almost impossible for those

who practise His faith to ever give cause of personal offence, and they are therefore properly exempted from all obligation to resent insult to themselves, which under such circumstances can only be regarded as wanton and cowardly.

But to men of the world, men who live under the laws of this world and disregard the higher law of Christianity, one of the best preservers of the integrity and purity of society is the law of personal responsibility as defined by a well regulated system of duelling. In every point of view duelling is an evil, but a necessary one because of the imperfections of our natures. In the same sense it may be said that the court of justice, the jail, the penitentiary are evils, but they are rendered necessary by those more remote yet certain evils which result from the injustice and depravity of human nature. The law of the duel places a penalty upon certain offences in society against honor and truth which the civil law cannot reach, and consequently deters the perpetration of them by men of courage and honor, while mean and cowardly men are restrained from their commission by the fear of the consequences. How many of us have of late witnessed upon the floor of Congress, where decorum and a sacred regard for the rights and feelings of others should above all other places be observed, men violating these obligations in the most wanton manner ; and in one instance, at least, have heard an individual lament that when he had helpless women and children in his power he did not torture and persecute them more than he had done, and yet, although without a single Christian sentiment to restrain him, has permitted and even exulted in the grossest personal insults from men, simply because they were able to defend themselves ! Could society by the most unrestricted use of the duel be reduced to

any greater degree of degradation or merit stronger condemnation?

Regarded as an evil, and even as an unjustifiable evil, it is well worthy of the consideration of public-spirited and philanthropic men whether duelling would not be at least a good substitute for the present system of avenging private wrongs now so generally adopted and sanctioned by public sentiment, and by even courts and juries, and which is so often attended by the most cowardly violence, wanton cruelty, and grossest injustice upon its victims.

That the law of duelling is often resorted to as the means of gratifying private malice rather than of vindicating personal honor is undoubtedly true. Under such circumstances no man who is actuated by honorable or noble sentiments can justify this abuse of a system that was adopted for far different ends, and this condemnation by men who acknowledge "the code" would greatly tend to abolish this abuse. One thing is very certain—that the almost total abolition of the duel has not had a favorable influence upon the moral and honorable tone of society, nor can we discover that a true Christian spirit has been thereby promoted. Had the opposite been the result, all high-toned men and well-wishers of society would rejoice in the disuse of the practice.

Mr. McMahon twice represented Baltimore City in the Legislature, viz., in the years 1827 and 1828. He was associated, as before, with many of the leading men of the State, and took a conspicuous rank among them. He was again assigned the prominent post of chairman of the Committee of the Judiciary. His colleague during both terms was the late General George H. Steuart, distinguished for his intrepidity and fidelity.

They were firm and efficient friends of General Jackson, and were elected on his ticket.

During the time he was thus representing Baltimore his father was a member from Alleghany. This county had begun to grow in population and importance. Already its great mineral resources were attracting attention, and their development commenced. This involved new and original legislation, and from his age and experience the elder Mr. McMahon was charged with much of the business of the county. Often he would find himself involved in difficulty and resisted by opposition which he could not surmount. In every such case his gallant son came to his rescue with his eloquence and logic. A distinguished gentleman who still survives and who was a member at this period thus writes upon this point: "Whenever the father got into difficulty in carrying through the House his favorite measures, I was often struck with the power and zeal with which his son would come to the rescue, and by his commanding oratory and influence seldom if ever failed to carry the House with him. I remember upon one occasion, after a great effort of the son to carry through the House a favorite measure of the father, I went to the old gentleman and congratulated him upon his success, and said he must feel proud of his son. With his face beaming with delight he grasped my hand and with great emotion exclaimed, 'Any man would be proud of such a son!'" The same gentleman, whose opinion upon such a point is worthy of weight, adds: "I have ever looked upon Mr. McMahon as the most ready, fluent, and off-hand debater I have ever known. Judge Chambers may have equalled him in some respects, but excelled him in none."

The labors of Mr. McMahon during the four years he was in the Legislature, as shown by his speeches,

his elaborate and studied reports, many of them upon new and hitherto unexplored subjects, his messages, and the numerous measures inaugurated by him, were wonderful, especially when compared with the labors of our latter-day legislation. The proceedings show in addition that he seemed never to have been absent from his seat, as his name appears upon almost every vote that was taken. He originated and carried through several important measures affecting the Baltimore and Ohio Railroad.

After his second term expired, whether it was the result of a fixed purpose formed at the time or not, his connection with all political and official station forever ceased. He never afterwards held any office, although, as will presently be shown, the most elevated places in the State and National Government were subject to his acceptance.

In June, 1829, he was nominated with acclamation by the Jackson party, which had then been recognized as the Democratic party, as a candidate for Congress. He declined the nomination in a long published address to the people of the State. That he would have been triumphantly elected there could be no doubt, as he was the idol of the Jackson party, which was then at the zenith of its power and triumph. But he persistently resisted the temptation, and, as has been stated, never again appeared before the public as a candidate for any office, national or State.

CHAPTER VII.

Temptations of his early life in Baltimore—Bravely overcomes them—Social charms and distinctions offered him and resisted—Comments on society at this time—His connection with important business and commercial projects—B. and O. R. R. Charter—Genius and faculty for details.

BIOGRAPHY becomes a crime against society whenever it suppresses the truth. The portrayal of no character should ever be attempted unless with the firm purpose of telling not only the truth but the whole truth. The vices and weaknesses of the great as well as their virtues should be narrated, for the one no less than the other teaches lessons of inestimable value. Mr. McMahon's life leaves behind this well-established truth, that no power of early education, no strength of virtue, no force of character, intellect, or example is always proof against temptation, and that the only safety for all, especially the young, is to have always upon their lips, in their hearts, and in their conduct of life the words of divine inspiration : "Lead us not into temptation." No young man passed through the moral dangers of a college life so entirely unscathed, or spent the first years of manhood in a state of more perfect exemption from every kind of vice. Yet after his career in Annapolis as a member of the Legislature, and after he had resumed his residence in Baltimore and plunged headlong into business, politics and its world, with all their incidental excitements, it cannot

be denied that he fell into a partial state of dissipation, with its concomitant attendants, which soon not only gave alarm to his friends, but, as is most unusual, awakened, before it was too late, apprehensions in himself for his own safety. Happily for all those virtues and mental triumphs which in after years so conspicuously shone forth in his life, he took a bold and manly stand against this insidious enemy, and completely, in one bold struggle, triumphed over it forever. His middle and latter life were as free from all such irregularities as that of any man.

Though actively engaged in politics, he was no less attentive during this period to his professional duties. His success in each was in a great degree due to the secluded and studious life which he led after he had sown what may be called "his wild oats." His talents, youth, and accomplishments, no less than his personal appearance and address, fitted him to be a great favorite in society, especially among ladies, but he eschewed its allurements, and devoted himself to his books, his business, and to ambition. His chief and almost only relaxation consisted in conversation with his few and select friends, many of whom consisted of young lawyers from the counties, and this rule he observed during his entire life. He has been often heard to say of the latter that their primitive, strong, and original ideas, their frank and undisguised manners, and their sincere, appreciative, and simple nature were especially congenial to his own tastes. No man could ever hold conversation with Mr. McMahon without being improved and captivated.

Mr. McMahon rarely ever appeared in the circles of fashionable life, and many attributed this result not to his own choice, but to what has been styled want of *social position*. This last theory was wholly unfounded,

and no doubt originated with those who, finding their advances towards this rising young man to enter the round of fashion and levity rejected by him, and thereby becoming chagrined, charged him with not being able to attain a position in society which he had positively refused. No man enjoyed in a higher degree all the elements that should entitle him to a *social position*, yet few held in greater contempt its absurd and wicked expectations. He never followed any man because of his position, especially, as is often the case, when that position was more the result of adventitious circumstances than solid merit. "Solid merit" was a favorite expression as well as a favorite idea with him. Among his intimate friends were to be found some of the plainest and most unpretending people, while many of those who stood high in social life he cordially despised and entirely rejected. But the great elements of a gentleman—honor, truth, and refinement of sentiment—he always held in veneration.

Notwithstanding he was an object of notice and attraction, he was still the subject of occasional jeers. I well remember the time and circumstances under which I first saw or ever heard of Mr. McMahon. I was a small boy of only ten years of age and was on a visit with my mother at the house of a family then residing on Lexington Street, which was considered among the most fashionable of the city. A number of young ladies were seated in the parlor, when the lady of the house, who was at the window, called aloud to them to run to her. "There goes," she said, "young McMahon! isn't he splendid!" Then in the next breath she added; "but he's vulgar—see, he wears his hat on the side of his head?" But if he did, the girls all gazed at him, in admiration, until he had passed out of view.

Of all the strange anomalies of human society, that of

“social position” is the greatest. While its limits are clearly marked and its power universally acknowledged, yet the principles upon which it rests or the rules by which it is known and governed no one can define. It is an organization without any fixed theory or system, yet it appears to have existed through every period of the world, exciting the boldest and most energetic efforts of the unworthy, the weak-minded and vain to attain to its immunities. In this country neither virtue, nor cultivation, nor talents, nor family, nor even refinement, as they should be, are the tests of admission into its fellowship, for often we find men and women possessing all these in a high degree, yet are totally discarded from social rank, while, on the contrary, many who are destitute of most of those possessions and advantages are received. Often it is true we find those who, without a thought or a care upon the subject, are admitted to all the rights of social life not so much because of their merits and qualifications as because of some adventitious or unimportant circumstance, while others possessing the same claims, but without the aid of the same chain of circumstances, are denied them. Substantial merit is often found in social position, but surely it is not so much the key to admission to it as qualities far more inferior and less enduring. This position is frequently if not generally attained, in cases of the undeserving, by means of presumptuous usurpation, the abuse of wealth, and by the sacrifice of many of the noblest virtues—for example, independence, charity, truth, friendship, and the like. To the vain and weak, especially among women, there is an attraction or fascination about *social position* which is inexplicable—indeed there are few who are entirely free from this morbid aspiration. It runs through and pervades every class of society, every de-

gree of intellect, every condition of fortune. When we reflect upon the sacrifices that are made to attain it, when compared with the unsubstantial fruits that result therefrom, we seek in vain for an explanation, except it be found in human vanity. It is a passion wholly sensual, because its object is immediate gratification. Unlike ambition, which seeks for fame in the future, all the triumphs of 'this passion are present and die with the possession. The memory of no man, with rare if any exceptions, was ever deemed worthy of commemoration exclusively upon the ground of the distinction he may have attained as a man of fashion or of social standing. If he has nothing more substantial upon which to build a posthumous fame, his memory will soon fade from the minds of posterity. While the men and women of fashion who ruled society during the period of the Charleses, the Jameses, the Georges in England, and later in our own country, if they possessed no other claim to distinction, have so completely passed from the records of history as to make it difficult, at this day, to cite a name even for an illustration. Goldsmith, Cromwell, Savage, Burns, Henry, Franklin, Morgan, Martin, and a host of others, who perhaps never attained or aspired to any fashionable distinction, as now understood, live in imperishable fame. Yet men and women continue, and probably always will continue, to pursue the phantom of social distinction with more avidity than orators, statesmen, soldiers, and poets seek to record their names upon the tablet of immortality.

That there will be distinctions in society, no one can doubt and none regret. It is impossible that the virtuous could mingle with the debased, that the cultivated mind should find pleasure in intercourse with the ignorant, that filth and cleanliness should be congenial,

that vulgarity and refinement should commingle. If some such distinctions or well-understood rules should regulate and determine social position, there could be no well-grounded objection to its recognition, and it is greatly to be lamented that by means of the weakness of our nature we should be prevented from organizing refined society upon well-defined, elevated, and noble foundations, and that it should no longer depend upon the caprices and whims of the weak and silly or of mere pretenders.

It is not against social distinction that we war, but against the extreme and absurd lengths to which it is often carried, and against the false principles upon which it is made to stand. The votaries of these extravagances suffer more from them than those they seek to exclude from equality. While they are rearing their children under the rules of tenderness and effeminacy, repressing the natural growth of their minds, impressing upon them the value of adhering to the trivial laws of fashion and society and the elegances of dress, rather than studying the great laws of nature, truth, and man, the children outside of this mysterious organization are unrestrained, growing in strength and courage of body and mind, and as the trees of the natural forest outstrip the cultivated shrubbery of the garden, so do these rise above their effeminate competitors in the struggle of life. It is for these reasons mainly that the children of the higher classes with all their advantages are not able to sustain themselves against the advances of the youths of the humbler ranks, and we find it a rare circumstance at the present day for those who are devotees of fashion or of exclusiveness, however great their intellectual power and distinction may be, ever to see their descendants attain to a similar position in society, while they are daily wit-

nessing those who in their youth knew nothing of luxury or effeminate culture—in other words the “vulgar”—rising to distinction over their heads. For this reason the great statesmen of the present day for the most part have no ancestry and leave no posterity of whom to boast.

It was not so in the earlier history of the Republic. The boys of gentlemen, as they were known and styled in those times, were permitted to “rough it” in their younger days as the best means of fitting them for the future conflicts of life, and the main if not the only lessons it was deemed important to add to the ordinary development of their minds were those of truth, honor, courage, and sympathy. In the early times of Virginia, when she furnished Presidents for the country, it used to be a jocular maxim that no one need aspire to be President unless he had gone *barefooted when a boy*, and it is probable that this fantastic theory has actually held good in the case of all of the eighteen Presidents that we have had, with perhaps one exception. Washington, Jefferson, and Madison, it is well known, are illustrations of its truth, while Messrs. Pinkney and Wirt and the late Chief Justice of our own State constitute striking examples that early fashionable training is not necessary to fit a man for high social position in after life. If individual examples were examined, it would be found that the rule as stated is correct and general, while opposite results only furnish the exceptions. With such a foundation as has been indicated, namely, truth and honor, well laid in youth, it will not take long in after life to acquire the external polish and accomplishments of a gentleman.

This exclusiveness of life shuts us out from many sources of enjoyment and amusement, as well as from the lessons of wisdom and philosophy which one so often

finds in the humbler walks of life. From this source, almost exclusively, did Dickens draw his unrivalled lessons of wisdom, wit and humor. Much of the wit and humor of the world has been drawn from humble and obscure sources, and Mr. McMahon's well-drawn anecdotes fully illustrate this truth. Humor always attracted his attention, wherever he would fall upon it, and if it were possible to draw it from an *oyster* he would make the effort ! His appreciation of wit and humor was keen in the extreme, and no man indulged in both more than he, on all becoming occasions, or in better taste.

The history of Mr. McMahon, who brought with him from the country to Baltimore all the elements of his greatness, is an example of the truth of what has been affirmed, and proves the falsity of the impression which generally prevails that true eminence in all professions is only to be found in our large cities. That they present a wider field for success than the country there can be no doubt, and hence many of our best men are attracted to them ; but that they are better calculated to develop real intellectual or moral greatness in youth, I deny. And the reason is obvious. In cities, the minds and bodies of men of all orders and ranks, owing to their dependence upon each other, fall under what are termed the rules of society and general conventionalisms (and frequently these rest upon unsound principles of morality and humanity), beyond the circle of which they never think of adventuring. Upon young men especially this influence is most baneful, and where they fall under it the result they never rise to any degree of originality, but continue through life the mere slavish followers of other men's thoughts and actions. Without freedom of thought and independence of action, no man can ever attain to true greatness. On the

other hand, in the country, untrammelled by conventional laws, the mind is free to think and the body to act to the fullest extent of their capacity ; and notwithstanding country men may sometimes incur the imputation from fashionable circles of boorishness, and lack the opportunities for culture which cities furnish, yet in the country have been laid the foundations of all the great men that have risen to renown in our nation, with but few striking exceptions.

The practice of this rising young lawyer, McMahon, during the period of which we have been speaking, was not confined to criminal cases or to that class of civil practice which calls forth especially forensic displays of oratory. Professionally he soon became identified with the commercial and solid business affairs of the city. Business men found that his judgment, learning, and business qualifications could as well be relied on as his eloquence, and he thus early in life became identified with most of the grand enterprises of the city which subsequently led to its increase and development. One of the most enduring monuments of the well-founded confidence of the business public in his skill and ability is the charter of the Baltimore and Ohio Railroad, which is the work of his pen. This was perhaps the first elaborate railroad charter ever granted in the United States, and its merit as a work of professional skill and great foresight cannot be too highly appreciated. Formed without a precedent, out of the fertility of his own brain, this charter itself became the precedent for almost every early similar charter granted in the United States.

He was distinguished for the combination of two endowments which is rarely ever met with. To a lofty genius was united a capacity to deal in details in a wonderful degree, and what is still more remarkable,

while the regions of logic and fancy seemed to be his natural element, he would come down to dry and insignificant practical matters with apparent pleasure. He was no more familiar with the rules of tropes and figures or legal logic than he was with those of arithmetic and book-keeping, and few merchants or shop-keepers could state an account better than he, or with greater facility.

The faculty of memory is not often found associated with genius, yet Mr. McMahon's history presents a striking example of an exception to this rule. No man could possess a 'more tenacious and accurate memory than he; nor was it confined to general subjects, but also embraced the most minute details, both as regards figures, dates, and events. He never forgot anything, and this faculty of memory it seems was born with him. He could refer with wonderful accuracy to case, volume, and page upon any subject, and to which perhaps his attention had not been called for years. All who have ever heard him argue cases in court can attest the truth of this affirmation. There have been persons who have charged Mr. McMahon with affectation upon this subject, and that this seeming display of memory was in fact the result of deliberate present preparation. Such a charge is wholly unfounded, and any one who has been at all observant of his arguments would at once discover that it would be absolutely impossible for him to affect this readiness of memory. As an extraordinary illustration of his power of memory and great learning, an intimate friend relates this anecdote: A lawyer once came into his room at the Eutaw House, where he kept his library, to confer with him about a case he was then considering. He stated that there were *four* questions about which he had great difficulty and upon which he could find no

satisfactory authority. Mr. McMahon asked what the points were, and the gentleman proceeded to state the first. "Go to the book-case," said McMahon, "and you will find the very point settled," referring, at the same time, to volume, case, and page. The second and subsequent points were then submitted, and upon every one, without a moment's hesitation, he cited, with the same precision and accuracy, some case or other authority which settled them. His friend, after the lawyer had gone, asked him how long it had been since he had seen those cases. Some of them, he replied, his attention had not been called to for twenty years !

CHAPTER VIII.

1829-1831—A celebrated trial and romantic features—McMahon's history of Maryland—His desertion of the administration (Jackson) party—The example of other leaders—"The Indemnity Act" and Bank of Maryland riots—Mr. Reverdy Johnson and Mr. McMahon before the Legislature—The latter's grand argument—Good results—The Senatorial contest of 1836.

IN the year 1829 a crime was committed in the western part of the State which excited deep and universal interest, on account of its rareness as well as its enormity and the previous respectability of the parties involved. The sheriff of Washington County himself previously a highly esteemed and even beloved citizen, and connected with one of the oldest and most respectable families in the State, through the powerful influence of a paramour murdered his wife under circumstances of the greatest atrocity. He fled, but after the lapse of several months was captured in New Orleans just as he was about to embark for some foreign country. He was brought back to Cumberland for trial. McMahon, then only twenty-nine years of age, in connection with the late William Price and William V. Buskirk, defended him. The evidence was so clear against the prisoner that although McMahon's effort before the court and jury was so powerful and fascinating that it literally intoxicated the crowds that attended the trial, it failed to secure an acquittal. The prisoner was convicted and subsequently executed. It

was in this speech that he dwelt with such peculiar power upon the mysterious and magic influence which is so often exercised for evil by the gentler over the sterner sex—how, prostituting reason, obliterating obligation, paralyzing the will, blasting hope, it terminates at last in ruin and desolation. His philosophy, his wisdom, and his eloquence as displayed on this occasion were of themselves enough to place him among the great men of our country.

Surrounding the woman who led to this tragic crime there hangs a history that romance could hardly equal. Without any special personal beauty or attractions, she yet possessed a serpent-like fascination over men which few could resist and which with a fiendish delight she exulted in exercising especially for the purpose of rupturing the sacred and tender ties of marriage. Previous to her acquaintance with the unhappy victim of whom we have been speaking, she had successfully accomplished her hellish purposes in a number of instances and in several cases in families of the highest standing. After the tragedy at Cumberland she disappeared, and as Rachel Cunningham was forever after lost sight of by the world. Though out of public view, she still lived. Years afterwards a poor, friendless, and penitent woman, hailing from North Carolina, under an assumed name asked admission into the Baltimore Almshouse, and was received. Her tenderness to the sick and afflicted, her fidelity to every duty assigned to her, and her exemplary conduct generally, soon secured for her a fiduciary position from which she was gradually advanced until she became the matron of the institution, and only a short time ago she died respected and, indeed it may be added, beloved by all those who fell under her care and influence. As a Magdalen it may be hoped that she fully atoned for

the afflictions and sorrows which she had caused in her earlier life, by the assiduity and tenderness which she employed to alleviate suffering and distress in her latter years !

Mr. McMahon was not deterred at this period by his professional labors from undertaking a responsible literary work which could only be performed by great study and laborious research. Reference is made to his history of Maryland. This production as far as it went—for it is greatly to be lamented that it never was completed—speaks for itself, and will impress all who are capable of judging as an achievement of great merit and value. The correct and vigorous style in which this book is written proves the author, independent of all concurrent evidences, to be a man of literary culture and great strength of mind. This volume of the history of Maryland was published in 1831.

We have spoken of the active part taken by Mr. McMahon in 1827 and 1828 and 1829 in promoting the election of General Jackson. The old hero had not long been in the Presidential chair before this firm and powerful friend deserted his administration. It would be difficult now to trace the motives that led him to take so important and so damaging a step. It surely could not have resulted from the loss of confidence in, or admiration and personal affection for, the great chieftain. He continued the same bold, true, patriotic, and faithful citizen and man he had ever been, and instead of doing anything to forfeit the confidence and affection of his friends, every act he performed, every sentiment he uttered as President could but tend to strengthen the cords that bound him to his personal and political friends. Yet Mr. McMahon did desert him, and in this one act we find more to condemn in the motives which we are forced to attribute to him for this step than in

any other ever taken by him in his previous or subsequent life. He forsook General Jackson either because he found his vanity wounded in not having the political influence awarded to him which he claimed, or because of the President's financial and commercial policy in the administration of the government. Either motive was wholly unworthy of the man and entirely indefensible. Though the first was perhaps the controlling one, Mr. McMahon thought proper to place the grounds of his change in politics upon the latter. In this he entirely failed to sustain himself before the public or his friends. It is well known that General Jackson only carried out boldly as President those measures which he had as boldly advocated before the people while he was a candidate, and during this period no one more ably and ardently sustained him than Mr. McMahon.

Reference has been made to the fact that he had become about this period closely identified, in his professional duties, with the financial and commercial affairs of the city of Baltimore. The truth is, as bold and free as he was when he came to Baltimore, as far elevated as he was above all sordid and mercenary motives, he was yet not—and few men are—above the contaminating power of wealth and traffic when found to bear directly upon his own personal interests. It is not to be intimated he was to be corrupted by such considerations, but that his judgment was swayed by them. It was against the undue and disproportioned increase of capital over other interests in the government, which the constitution and laws made it the duty of the President equally to protect, that General Jackson arrayed himself. Mr. McMahon, though strong-willed and virtuous, was yet not enough so to take sides in this contest against his clients. His vanity led him to suppose that

he could injure General Jackson's political fortunes as much as he had previously helped them. But in this he was sadly mistaken. In after life he once playfully referred to this epoch in his history as illustrating the strength and firm unity of the Democratic party. He said that he imagined that when at that period he took sides against the old party he would see it totter if not fall under the power of his assaults, but so far from it, he playfully added, that after the smoke of his fire had cleared away he found, to his great mortification, that two, and *only two*, had fallen victims, and one of those in less than two weeks recovered and returned to his original fealty.

About the same time quite a number of other prominent leaders of the Jackson party in Baltimore, doubtless for the same cause, deserted its standard. Among the number, Messrs. Reverdy Johnson, John Glenn, and George P. Kennedy were conspicuous. Notwithstanding all these gentlemen had been among the most vehement in their denunciations of Mr. Clay—the latter perhaps the first in Maryland who publicly from the hustings charged the corrupt bargain between Mr. Adams and Mr. Clay in regard to the Presidency—they yet subsequently, unlike Mr. McMahon, became warm political and devoted personal friends of the great Kentucky statesman, and firmly adhered to him as long as he lived.

It was in the year 1836 that Mr. McMahon made perhaps the greatest forensic argument of his life. It was when the "indemnity act," as it was known, was under consideration in the Maryland Legislature.

Most persons who are at all familiar with the history of our State know all about the indemnity question and its origin.

The Bank of Maryland, one of the oldest as it was

John P. Kennedy

considered the safest in the State, had secured to a wonderful extent the confidence of all classes of the public—the wealthy merchant, no less than the widow and orphan. Those most directly interested in the bank—its directors and officers—had such confidence in this old institution that they supposed that by some superhuman power it could manage itself. Under this delusion—or rather to use more appropriate terms, and perhaps the mildest that could be employed—by reason of neglect, the bank in an hour when least expected went to pieces, producing more wide-spread ruin, especially among the humble classes, than had ever before been experienced from a similar cause. In a single day the wealthy lost their fortunes, the widow and orphan their pittance, and the hard-working laborer was reduced to beggary ! Popular indignation followed, culminating in riot, bloodshed, and destruction of property. The houses of some of the leading men connected with the bank, without regard to their owners' actual complicity with its bad management, were attacked and demolished. The arm of civil law for the time was powerless and the city fell into the hands of an infuriated mob.

After order and quiet were once more restored, the parties who had thus suffered appealed to the Legislature for redress and indemnity.

This application was based upon the plain principle of civil government, that loyalty, obedience, and the payment of taxes on the part of the people begot the correlative obligation of protection on the part of the State. Whether this doctrine applied to the case then before the Legislature was the imposing question to be settled for the first time in Maryland. It excited universal attention and even much personal bitterness and party rancor. The best talent and professional learning of the State were elicited in some way upon one

side or the other of this grave question. Men were consigned to political obscurity for the part they took in this controversy, while others for the same reason suddenly advanced to power and distinction. Mr. Taney was first employed by the parties seeking indemnity to represent them before the Legislature, but before the time came he was appointed Chief Justice of the United States, and of course withdrew from the case. Mr. McMahon was therefore called to fill his place, and entered at once with zeal upon his preparation for the task.

Mr. Reverdy Johnson and Mr. McMahon by resolution of the House were allowed the same privilege of appearing on the floor to address the Legislature in behalf of the claim for indemnity. Mr. Johnson, notwithstanding his known ability and great self-possession, fell on this occasion, perhaps the first time in his life, below the expectation of his friends and the public. This result was mainly if not entirely attributed to the peculiar relation which he bore to the case. He was, virtually, *himself* on trial. His own house had been demolished by the mob, because of his alleged complicity with the affairs of the Bank of Maryland, and he was himself seeking indemnity from the Legislature, and in order to accomplish that, his own vindication was necessary. Under these trying circumstances, coupled with a sensitive nature, his power in a measure failed him, and he found it necessary to throw himself upon the argument of his friend. It was manifest he leaned upon a pillar of strength quite sufficient for the emergency. It was then that he made the speech to which reference has been made. No befitting record of this brilliant effort remains, and the author's efforts to find some written trace of it have failed.

It was on this occasion that he exclaimed in an im-

passioned manner in response to the assertion of one of his opponents that all mobs or riots were impelled by virtuous and generous impulses : " Was the mob that cried crucify him ! crucify him !—the blessed Saviour—
influenced by virtuous and generous impulses ? " This interrogatory was followed by many other similar ones, referring to other noted occasions in history where innocence and virtue had suffered and perished under the power of a vicious populace. He spoke on this occasion for three days, and several times he became so exhausted physically that he had to take his seat until he could gain strength to proceed.

His father, then an old man, with his locks whitened by the frosts of seventy winters, was at the time a member of the House. Doubtless he was of all the audience who sat spell-bound under the power of his son's eloquence the most impressed by the solemnity of the scene, heightened as it was by the full consummation of the most extravagant parental aspiration.

The Hon. John Nelson had been employed by the city to defend its interests in this great controversy, and he also appeared upon the floor of the House and delivered a speech, characterized by his usual ability and eloquence, against the power of the Legislature to tax Baltimore for purposes of indemnity.

The indemnity was allowed. Gradually, as time passed on, the public mind became reconciled to the measure, and finally with great unanimity it was sanctioned by them as proper and just. The same public sentiment, after the excitement of the occasion had subsided, with equal unanimity and justice exonerated the parties from all censure for any criminal connection with the Bank of Maryland. Indeed it may be safely affirmed that enlightened public opinion, after a calm review of the whole subject, settled down upon the

belief that the gravest judgment that could be rendered against the parties for the disaster of the Bank of Maryland was official negligence, and that fraud or speculation could not be charged or even insinuated against any of them. This was Mr. McMahon's view from the beginning, otherwise he would never have taken so bold and conspicuous a part in their vindication. Immediately after followed the law by which indemnity for the future was provided for through the courts without the necessity of an appeal to the Legislature, for all injuries sustained from mobs or riots in cities, towns, or counties. This law was the work of Mr. McMahon's pen. It was the direct fruit of the Baltimore riots of 1835, and though warmly resisted at the time, it has since been fully accepted by the people, for no attempt has been made to repeal it, and it remains in full force, and under the law several proceedings have been had and corporate towns made to indemnify individual losses.

In the year 1836, the people, under our old unique and, as Mr. Madison styled it, the wisest system in existence among the States, elected electors to chose a Senate to serve for six years. Under the constitution each county, without regard to population or extent of territory, was allowed two electors, and the cities of Annapolis and Baltimore each one. The majority of the electoral college thus chosen designated the entire Senate, which was composed of sixteen members. The election resulted in the choice of twenty-one Whigs and nineteen Democrats, while the popular vote showed an immense Democratic majority in the State. By a singular provision of the constitution *twenty-four* members of the electoral college were necessary to constitute a quorum, and hence it was in the power of the Democratic electors to defeat an election by refusing to go

into the college. This power they determined to avail themselves of, and refused to unite with their Whig colleagues in an election of a Senate, except upon certain terms which they dictated. The Democrats maintained that this arbitrary provision of the constitution respecting a quorum was a wise and subtle principle incorporated expressly with the view of providing for an emergency which had for the first time arisen in our history, namely, the protection of the majority against the rule of a minority, and that it was the deliberate design of the framers of the constitution thus to afford the people the power to work a peaceful revolution in our form of government whenever such a contingency should arise and when the rights of the majority could not be amply protected under the forms of the constitution. The Whigs boldly and to a man repudiated this doctrine, and would at first listen to no terms of adjustment, but claimed the right to elect the entire Senate. The Democrats were equally firm in the maintenance of their position. In this incongruous state of things each party under separate organizations met and adjourned from day to day and week to week. In the mean time the people throughout the State were gradually worked up to the highest pitch of excitement. The Governor (Veazy), a Whig, made a great stir, much greater than was wise or necessary, and which added mainly to the excitement of the people. He directed that the military be equipped and hold themselves in readiness for service at a moment's notice.

Capital, always sensitive and anti-republican, imagining that it saw in this movement not only revolution but anarchy and agrarianism, threw its immense influence in favor of "the twenty-one," while the virtue and muscle of the State was mainly on the side of "the nineteen."

Mr. McMahon was at the time acting with the Whig party, and consequently took sides with "the twenty-one," but his friends, perhaps from his previous republican tendencies, imagined that his heart was not deeply enlisted in the subject, and if the truth was known he regarded the whole affair from the beginning to the end as something of "a tempest in a teapot."

The quarrel was at last ended by a compromise, which consisted in the election of certain liberal Whig reformers.

Persons are still living who, familiar with the period between 1830 and 1840, will remember that the Whig party was divided into two factions, known as the "Court House Clique," headed by Mr. Green and Mr. Johnson, and the "Country Clique," headed by the Merricks and Thomases. Mr. McMahon, though he rather inclined to the latter, belonged to neither, but was a great favorite with both, especially as he was supposed to desire no office and had withal great political influence. In the bitter and doubtful struggles for power of these cliques, he would have been gladly accepted at any time as a fitting arbiter between them. Indeed, there was no time during the period referred to, such then was his political power, that he could not, had he pleased, put his foot upon the neck of either of these factions, and crushed any one of its members.

Immediately upon the sudden death of Ex-Governor Joseph Kent, the Senator from this State, in November 1837, there commenced a warm and bitter contest for his much coveted place. It was a political mark worthy of the highest aspiration, not only for its honor but for its power. The two cliques at once entered the field and would have waged a bitter warfare against each other had not the presentation of the

x Glen?

towering name of McMahon at once cooled their ardor and suspended their struggle. Appeals at once from every quarter of the State, from Alleghany to Worcester, began to pour in upon McMahon urging him to allow his name to be used for the vacant place and pledging him support. Mr. I. D. Jones (our late Attorney General), then of Somerset, addressed him a letter from which is made the following extracts :

“ PRINCESS ANNE, December 1, 1837.

+ “ DEAR MCMAHON : I snatch a moment amidst the hurry and bustle of court to write you a line, and I shall make no apology for abruptly saying to you that there is but one voice among the Whigs here relative to the filling of the vacancy in the United States Senate occasioned by the death of the late Dr. Kent, and that voice is loudly, boldly, and decidedly in favor of John V. L. McMahon ! Judge Tringle was in my office when I opened the paper and read the intelligence of Dr. Kent’s death. We instantly expressed a hope that you would accept a seat in the Senate, and declared for vigorous efforts to secure your election, if from any quarter it should be opposed. In a moment or two, one of our delegates, C. C. Carroll, Esq., came in, and joined most heartily in our wishes and resolution. In the course of the evening I saw William M. Handy and S. J. K. Handy, and they are zealously for you. Judge Goldsborough came the next evening, and tells me all Dorset is for you as far as he can learn. His cousin, N. L. Goldsborough, Esq., one of the delegates for that county, he said expressed his determination to sustain you for the place. All the Whig delegates I have seen or heard from in this section of the State are for you. The three delegates for this county are warmly committed in your behalf.

“ So is Townsend, of Worcester. The others I have not heard from, but they will unquestionably join him. In fact, I have not conversed with a man of any party who has not instantly coincided with me in opinion that you are pre-eminently entitled to the place. These are no ordinary times. The State has long enough laid under the incubus of *mediocrity*. The occasion demands, the State of Maryland demands, a Senator who can and will measure intellectual strength with even the giants in mind who now adorn the Senate of the United States. I speak not only the opinion of those bound to you by private friendship and personal attachment and acquaintance,

+ Tringle

but I speak the voice of those who know you only as a public man, an American advocate, an American statesman, the mountain orator, whose spirit and sentiments partake of the boldness of the natural scenery amidst which his early days were passed, when I say that you stand out alone in bold relief, pre-eminently entitled to public consideration for the vacant seat.”

Mr. McMahon had, in some casual conversation with Mr. Johnson or some of his friends, dropped certain expressions which he was afterwards pleased to construe into a committal that he would not interfere with the latter's election, and he supposed or imagined that it would not be honorable in him afterwards to seek or even accept the Senatorship. What he did actually say is not now remembered, but his friends protested against any such construction of his language, and insisted that it would be perfectly consistent with honor and fair dealing for him to allow his name to go before the Legislature as a candidate. Mr. M. C. Sprigg, of Alleghany, absolves him from further obligation to Mr. Johnson upon the ground that the latter had no chance for election. He writes thus :

“ MONDAY TWILIGHT, Annapolis.

“ MY DEAR SIR : I now more than ever regret the course which your friendship (as I think) for Johnson has induced you to adopt. Depend on it, he stands no chance of being elected. If I am mistaken in this, I shall never venture a guess again. You could have succeeded without difficulty, and I believe can yet, provided you will say, without any *ifs or ands*, further than ‘if your friends think proper to elect you, you cannot feel at liberty to decline the honor’—something in that way, but decisive. If you are off I shall vote for Schley, for whom, as you perhaps know, I have very great personal regard. I am interrupted. Several Whigs have just left me, and all concur in the belief that Mr. Johnson stands no chance of success.

“ Yours truly,

“ M. C. SPRIGG.”

CHAPTER IX.

Continued and general efforts to induce Mr. McMahon to go to the United States Senate—Correspondence on interesting matters—The political excitement at this time—His great power and control in all measures—"Log Cabin" days and the great Whig Convention.

CHARLES C. CARROLL of Somerset at the same time addressed a similar letter to that of Mr. Jones to Mr. McMahon, pledging himself and his delegation to his support. Mr. M. C. Sprigg, of Alleghany, also a member elect and ex-member of Congress, again and again wrote to the same effect promptly and urgently. Teakle Townsend of Worcester, known then as one of the "wheel horses" of the Whig party, after the meeting of the Legislature wrote a number of similar letters. He said: "If I know my own heart, I am actuated by the purest motives, my dear sir. In addition to my own private feelings and wishes, I desire to serve the Whig party of Maryland, and perhaps of the United States. I have ascertained certainly that you can be elected by acclamation, and all agree that it is the only thing which will save the State of Maryland." Mr. James Turner, of Baltimore County, ex-member of Congress and member elect, makes a similar appeal; also Thomas Burchenal of Caroline. David Ridgely, the venerable librarian, wrote to Mr. McMahon after his peremptory declination: "I believe—I know—had you left yourself in the hands of your friends you would have been taken by acclamation. Even now it ap-

pears to be the wish of all (candidates included) that you should be prevailed on to serve. I never knew the Legislature to be as unanimous in any one thing, and all wonder at your want of ambition." Mr. Jno. Dennis, then the representative in Congress from the lower Eastern Shore District, wrote to the same end, and, in anticipation of his possible determination to decline the position, added : " For which determination (you will excuse the expression) I think you would deserve censure from your friends."

To these evidences of popular preference we might refer to numerous newspaper articles from all parts of the State in behalf of his election. We refer to but one—an Easton paper—and make the following extract :

" None other than a first rate man will do. A man conversant with the true interests of the State and of the people at large—with courage to uphold them and talents to defend them when assailed, one that will not sink into insignificance by the side of a Webster, a Clay, or a Calhoun, but who can assist them by his impressive eloquence in battling for the constitution and the laws—we want, and such an one we must have, or the pride of Marylanders will be humbled to the dust. Such a man is John V. L. McMahon. And should the superior wisdom of the Legislature point to him as the guardian of Maryland's rights in the national councils, mere words would be inadequate to express the measure of our gratification at the result."

Finding that Mr. McMahon's purpose not to be a candidate was fixed and unalterable, the several aspirants for the place at once began to coquette with him for his powerful influence. Mr. Gill, at the time the clerk of the Court of Appeals, a leading and influential Whig, an active member of the Court House Clique, and one of Mr. Reverdy Johnson's most devoted friends and partisans, led off in the following letter :

"DEAR SIR : I learn this morning from several sources that you have announced yourself as positively declining to go into the Senate of the United States, and under that belief write you. The prominent men are Merrick, Schley, and Johnson, and I do know that you can serve Johnson effectively at this moment. The only ground of opposition is the circulation of an opinion that his election may prejudice the Whig cause, that his association with the Bank may injure us. I write to you, who know how unjust this is in fact, who have so warmly, anxiously, and manfully resisted this foul aspersion from first to last, who have given time, health, exertion, opinion, and character to arrest such consequences, to put the seal of your approbation to this matter, and do what I know must be most agreeable to our past relations of friendship and confidence—to come again into the affair, in refuting the oft-repeated slanders. I am quite confident that you can, if you will, do more than any other person, and this act, while it corresponds with your past efforts, will in future times be a source of unalloyed satisfaction to you.

"Yours,

"R. W. GILL.

"ANNAPOLIS, Christmas Day."

Mr. Samuel Jones, Jr., a delegate from Baltimore City, and an undoubted leader of his party, appeals to him for his influence in behalf of his friend Mr. Johnson, but not having any decided hope of his election, makes one more strong effort to induce Mr. McMahon to reconsider his purpose and allow his name to be brought before the Legislature. He thus writes to him :

"ANNAPOLIS, December 26, 1837.

"DEAR MC. : I arrived here this afternoon, and find matters all at sea in regard to the individual who may be selected to fill the place of the late Dr. Kent in the United States Senate. The prospects of our friend Reverdy are not so flattering as I could desire, and it is essentially necessary that his friends should use every effort to insure his election. Would it be inconsistent with your views of propriety to write to a number of the members of the Legislature, expressing your preference for Mr. Johnson, and urging his election as promoting the power of the State and the advancement of the principles of the Whig party? After all it will be exceedingly doubtful whether he can be carried.

And now permit me to ask you, will you not consent to a nomination in case Mr. Johnson's friends find it useless to press him? You can be elected without difficulty if you will say the word. Your friends from all parts of the State are much disappointed in learning that you will not be a candidate, and many of them express their opinion that your declination will be a serious injury to the Whig party and your own political prospects, if you have any—and who in your position has not?—while on the other hand it is asserted that your acceptance will increase the Whig vote on the Eastern Shore one thousand votes. I have always understood that you placed your refusal upon the ground that you would not interfere with Mr. Johnson's prospects. If this be so, and the firm friends of Mr. Johnson find he cannot be elected, permit me to announce your name, and the whole is at once settled. And why should you refuse? The course you adopted when anarchy threatened the State, and the overthrow of the constitution seemed inevitable, has gained for you a name among your fellow citizens and a place in their affections from which you may not easily be dislodged, unless peradventure your own neglect of their proffered regard should cause you to perish from their memory. Remember

‘There is a tide in the affairs of men,’

and I trust you will take it at the flood. Is it not your duty to respect the wishes of the people so universally and so willingly expressed? Let me then hear from you, and say that if Mr. Johnson's prospects are such as to render his election altogether out of the question, I may use your name.

“Your friend,

“SAM. JONES, JR.”

Mr. David Stewart, the Senator from Baltimore, and at the time one of the leading and deservedly most influential men in Maryland, writes thus to McMahon :

[CONFIDENTIAL.]

“ANNAPOLIS, Wednesday, February 26.

“DEAR MAC : Our caucus the other night satisfied me that you must *accept* or lose much of your proud position in the State. I do not mean political position merely. In the candor of my sincere and enduring friendship I must say that unless you answer this appeal which *I am authorized* to make to your patriotism and fidelity to a party (to whose tributes of honor you certainly owe a debt of

gratitude) by placing your name at the disposal of a friend who never has abused confidence and who has at heart only a glorious victory to be achieved by a *worthy champion*, your character for firmness and disinterestedness will be *greatly* impaired.

"I feel deeply upon this subject when the alternative is submitted—continued confidence in you and eminence above all, or the present alienation of public *affection* and future oblivion. You are not a competent judge in this matter.

All with one voice from Worcester to the West ask this acceptance, and *claim fulfilment* of your pledges, which they *remember* and refer to. No one else will do. Your acceptance will be expected by return mail, as we have agreed to meet on Friday.

"Faithfully yours,

"DAVID STEWART."

Mr. William D. Merrick, at the time a delegate from Charles, and who became ultimately the successful candidate, finding that efforts were being made to invoke Mr. McMahon's influence against him, most effectually defeated any such purpose by the following adroit letter, which he addressed to him in the midst of the Senatorial contest :

"ANNAPOLIS, December 28, 1837.

"DEAR SIR : The friendly relations existing between us justify me in communicating frankly with you upon the present occasion, and warrant the expectation of an equally frank reply.

"It is not unknown to you that there is a large portion of the Whig members of the Legislature, now assembled here, who desire with your consent to place you in the Senate of the United States, nor can you have failed to have observed that it was not until after your card had been published, which was generally considered as a refusal on your part to permit your friends to present you for that station, that my name was presented to the public consideration ; and though perhaps not known to you, it is a fact that your most particular friends and supporters here, who after the meeting of the Legislature seemed still to suppose that you might be induced to become a candidate, were informed that in the event of your becoming a candidate, *I* and my particular friends would with pleasure cast our votes for you. Notwithstanding all which, it has been constantly reiterated, upon the alleged authority of conversations held with you and letters

received from you, that your name would not be presented, and the canvass has proceeded between Mr. Schley, Mr. Johnson, and myself ; until now that it is clearly ascertained that my strength is greater than that of either or both of these gentlemen, your name is again suggested and made use of here to delay the election, and ultimately to defeat me if possible. Under these circumstances may I not ask the favor of you to let me know distinctly your position? I am very sure it is not with your own consent that your name is thus used, nor can I suppose you will have any difficulty in giving me the information I desire, and which is necessary to the regulation of my own conduct in resisting these machinations of your and my own enemies.

“ Very respectfully,

“ Your friend and servant,

“ WILLIAM D. MERRICK.”

Notwithstanding these conflicting appeals, Mr. McMahon maintained a neutrality to the end among the several Senatorial aspirants.

These evidences, which are only a part of those at command, have been submitted not for any special value or interest in themselves but only to prove conclusively the power and influence of Mr. McMahon at that period in Maryland—indeed neither Mr. Calhoun, Mr. Clay, nor Mr. Webster ever exhibited greater strength in their respective States in the zenith of their political career.

Mr. Merrick was subsequently elected for the unexpired term of Governor Joseph Kent, and the following year, 1838, was re-elected for a full term.

Mr. McMahon continued to act with the Whig party until 1840. It is evident from the following letter, which was a private one, and which bears on its face the sincere conviction of the well-informed politician and able statesman Colonel Merrick, then United States Senator, that he continued to hold the most prominent and controlling position among the men of Maryland up to the date of that letter, which was written imme-

diately after General Harrison's nomination at Harrisburg in November, 1839, and that he was regarded as the adviser, director, and main support of the Whig party :

“WASHINGTON, December 19, 1839.

“MY DEAR SIR : Sufficient breathing time having now been allowed since the result of the Harrisburg Convention has been made known, you will allow me to call your attention to the importance of the early organization of our party in the State, preparatory to the next fall election. The nomination being one which I am aware meets your approbation, it seems to me important to us all that you should take the lead and the front rank in preparing for and conducting the campaign to a successful result.

“If you will consent to take upon yourself this lead in our affairs, and give to the party the benefit of your name at the head of the electoral ticket, I shall have no fears about carrying the State triumphantly. What think you of an early call of a convention of delegates from each county in the State to nominate an electoral ticket and make other necessary preparations and arrangements? I would most respectfully advise that course, and would also suggest that the call proceed from a meeting of friends in your city ; that such a meeting put forth an address after your usual and effective manner. The convention it seems to me should be as numerous as possibly may be consistent with convenient accommodation, and judicious friends in every county should be requested to give their attention to the county meetings and the selection of the delegates. This last matter could be best attended to by a corresponding committee *ad interim* to be appointed at the primary meetings in your city.

“The administration party here are making large calculations upon our State, and many Whigs are doubtful, and seem to be the more so because Clay is not the candidate. I tell them all, as is really the fact, that I have no fears of carrying the Harrison ticket by a handsome majority if you, as I sincerely hope you will, enter zealously into the matter. Let me hear from you, and believe me to be

“Your Sincere Friend,

“WILLIAM D. MERRICK.”

He declined the post of honor assigned him as an elector at large on the Harrison ticket, preferring, as he said, to remain a private in the ranks.

In the year 1840 we had the famous "Log Cabin" and "Hard Cider" campaign. The Whig party made their nominations as much as a year in advance of the election. Never in the history of this country have we had such an active and excited—and even bitter, though withal honest and honorable—political contest. Women and little children no less than voters entered into the conflict, and even the beasts of the field seemed to take sides upon the absorbing question. Business was neglected, men and women shut up their houses and went miles from home to swell the great gathering. In fact the whole country for one full year was boiling with excitement and alive with commotion. The intercourse of families which had always been united by the strongest cords of friendship was suspended. The bitterest passions were aroused. And all for what end? The country was at peace with all the world—was happy and prosperous. The constitution was by both parties venerated and observed next to the inspired Word. The laws were maintained, and liberty preserved and honored. The election of either Harrison or Van Buren would not have been likely to have changed that happy condition, yet the struggle was maintained as if our very national existence depended upon the result. Alas! how happy we, even those who were so active in the contest of 1840, would feel if we could now have the proud privilege of voting for either of those candidates or men like them. Instead of repeating the scenes of that period we would gladly shut our eyes and permit a child to select our ballot as between the two.*

Of all the assemblages of people that have ever been

* This was written at the close of our civil war, and has reference to the political demoralization immediately following it.—ED.

held in this country, the Young Men's Whig Convention which met in Baltimore in May, 1840, was the greatest and the most imposing. Without the facilities of railroads, men and women nevertheless seemed to come from the remotest sections of the land. Delegations came hundreds of miles in log cabins drawn by horses, and in many instances were over a month in making the political pilgrimage. All along the roads over which they travelled they were greeted and feasted with the wildest delight and unbounded profusion. Probably every prominent Whig in the country was present. Political aspirations had already been awakened, and every step likely to lead to future promotion had begun already to be contested. Consequently the presidency of this convention was deemed a great prize. Captain Stockton, at the time in the Navy, an original Jackson man, had but recently united his fortunes with those of the Whig party, and as he was then at the head of the New Jersey railroads, and possessing consequently great power, he was regarded by himself as well as by others as a great acquisition. He pledged New Jersey for Harrison, as the price of the presidency of the convention. He was an imperious, ambitious, and dictatorial man, and though not a person of very strong intellect, he yet possessed many elements of greatness and power, in his force of declamation, his wealth, and his indomitable will. He was disappointed. In his disgust and indignation he ordered a special car, had the track to Philadelphia cleared, and wrapping himself in his martial cloak and in sullen grandeur he took his abrupt leave of Baltimore and the Whig party, and turned his face homeward, without even waiting to cast his eye over the sea of human beings that was soon to exhibit itself.

McMahon was after due deliberation chosen as the

President. This selection was the result of no effort of his own either direct or remote. When he was called to take the chair he arose; swelling himself even above his own natural proportions, and in an imposing manner and a stentorian voice he bid "the Nation to come to order!" Perfect stillness and order instantly prevailed throughout the vast multitude. He then commenced his far-famed address with that bold and striking but defective figure of speech which became so familiar with every one. He began: "The mountains have sent forth their rills—the hill-sides their streams—the valleys their rivers, and lo! the avalanche of the people is here!" To all cultivated minds the incongruity of this figure will be apparent. Rills, streams, and rivers may cause a flood or a deluge, but can hardly be said to produce an *avalanche*. Had he said, "And lo! the *déluge* of the people is here," the figure would have been far more appropriate and artistic. Mr. McMahon subsequently during the campaign made several speeches, but he never entered the contest with the zeal and energy which had characterized his Jackson days.

CHAPTER X.

General Harrison's election—McMahon's great influence in his administration—The Baltimore postmastership—Political changes—His second persistent refusal of his country's honors under Tyler—The office of Attorney General of the United States thrust upon him—The memorable Mackenzie-Spencer affair—Synopsis of the tragedy and his connection therewith.

UPON the election of General Harrison, a seat in his cabinet was at Mr. McMahon's disposal and formally tendered, but he promptly declined it, as it was generally expected he would. For this step he could for once give an excellent reason—he was afraid of the company with which he would necessarily have been associated in this administration.

His influence, nevertheless, with General Harrison in organizing his administration was all-powerful. His recommendation was alone sufficient to secure any appointment in Maryland. An amusing and characteristic anecdote is told of Mr. Wm. H. Gatchell,* of Baltimore, in this connection. He was, at the time, as he is still, possessed of many warm and devoted friends who are ready to make any reasonable sacrifice to serve him.

He became an applicant for the office of postmaster of Baltimore City. This announcement, such was Mr. Gatchell's supposed power with the Whig party in

* Mr. Gatchell died in Baltimore in 1878.—ED.

Maryland, was alone sufficient to drive off all competitors and leave the field open to him. His friends from all parts of the State literally covered him with voluntary letters of recommendation until they accumulated to such a bulk as to make them a burden to carry. There was, however, one name that did not appear among Mr. G.'s credentials, and that was Mr. McMahon's. As the time approached for the appointment the name of a gentleman, politically obscure, but personally one of the highest respectability, was feebly suggested as an opponent of Mr. Gatchell. The name of Colonel Finley in this connection excited ridicule and contempt. At last Mr. Gatchell started for Washington weighed down by his carpet-bag of letters to the President. The cars had hardly started before he discovered his competitor, Colonel Finley, seated not far from him, and assuming what his mission to Washington was, he turned his eyes from the venerable Colonel down to his well-filled bag, and his heart throbbed with pity and commiseration at the fate that surely awaited him—he lamented that such a respectable old gentleman should be so soon subjected to such an overwhelming and mortifying overthrow. Upon reaching Washington, among the first objects that greeted Mr. Gatchell's eyes was a coachman in livery. He soon commenced to inquire for Colonel Finley, and on being pointed to him he quickly approached him with the announcement that the President's carriage was waiting to take him to his house. Mr. G., it may well be imagined, was overwhelmed with surprise and disappointment. He realized his fate in an instant, and saw that his case was hopeless. He never left the depot, but took the first train homeward, bringing back his letters, which perhaps remain to this day unopened or unread.

The explanation was that Mr. McMahon had seen or written to the President and secured Finley's appointment. On the 9th of March 1841, Senator Merrick addressed Mr. McMahon as follows upon this subject :

" I waited upon the President yesterday and delivered him your letter in relation to Mr. Finley, and have to say to you that he requested me to inform you immediately, and desires you to inform Mr. Finley, that it is his *fixed purpose* to give Mr. Finley the Post Office. This puts an end to the question in a manner which cannot but be satisfactory and flattering to you."

To further show the power and authority of Mr. McMahon at this period, I must refer to one other extract from a letter of Colonel Merrick. Mr. Jas. W. McCulloh had been recommended by Mr. McMahon as the First Comptroller of the Treasury, and the appointment was considered as assured until Colonel Merrick wrote that, " Upon conversing with the President to-night about our friend McCulloh, I was amazed to find that his mind had been, by some means, put afloat on the subject." Colonel M. further urged him to come at once to Washington and to see the President, and adds : " Kerr (his colleague) is at Easton. Drop him a note *ordering* him home to his post, to help us."

Mr. McCulloh was in the end appointed. It thus seems that McMahon not only controlled the President of the United States in regard to Maryland affairs, but was also invested with authority to "*order*" her Senators at will !

Notwithstanding the false step he had taken in changing his political associations after the election of General Jackson, he nevertheless through life continued firm in his faith in the fundamental principles of the Democratic party. In fact he never was at heart or in

principle a Whig. The doctrines of Mr. Clay and his especial followers he detested, and did not hesitate to condemn them on all proper occasions. He supported Harrison as a member of the *opposition party* to Mr. Van Buren, and he seemed too glad after ten years' estrangement from his old political associations to return to them upon the first pretext that was offered, and which was afforded him upon the accession of the Harrison party to power, and the bold proclamation that was then made by its leaders that all the old exploded federal measures were to be revived.

After the death of General Harrison, which occurred on the 4th of April, 1841, just one month after his inauguration, and the elevation and defection of Mr. Tyler, Mr. McMahon came to his support openly and boldly. Upon the reorganization of Mr. Tyler's cabinet, again the post of Attorney General was tendered him. Mr. Henry A. Wise was deputed by the President to call in person and make the tender to him. An interview accordingly took place between the two at Baltimore. The object of Mr. Wise's mission was made known to him, and the importance of the acceptance of the position strongly urged. He declined the honor, when in fact he could assign no good reason for doing so. He hesitated, he halted, and even shuffled in his replies to the pointed and bold queries which were pressed upon him for explanations of his conduct in thus withholding his influence, his talents and learning from the public councils and from his political friends at a moment when they would have been of so much value to each. Still he persisted in his refusal. At last Wise lost his patience, and in his not unusual abrupt and dictatorial manner turned upon him and vehemently addressed him: "Man! what is the matter with you? Have you become a coward?" McMahon, much to Wise's

surprise, tamely admitted that he had ; that he had not the courage to undertake the duties of a position which would draw the eyes of the whole country upon him ; that he shrunk from the obligation he would be obliged to assume, and that he would rather continue in his present quiet and unobtrusive walk of life, and smother the fires of ambition that burned within him as hotly as they did in the heart of any man, than run the remote risk of even a partial failure in the new field of fame which had thus been opened to him.

Surely no friend of Mr. McMahon can admire or even approve of his timidity as thus manifested on this occasion. In recording this episode in his life, his biographer admits that he brings to view a trait of character which will not commend itself to even the most ardent and indulgent of his friends.

Yet there was something of sacrifice and principle in his conduct on this occasion which when properly viewed is in fact worthy of admiration. It showed in the first place an exalted appreciation of public and official obligation ; in the next place it developed a native instinct of modesty which should always be commended and admired ; and, above either, it illustrated a spirit of self-abnegation which was ready to surrender personal advantage and honor to a sense of the public welfare, and an obedience to the demands of the heart rather than of fame. It is hardly proper to impute to Mr. McMahon as a fault that he had more distrust of his own abilities than his friends and the public had ; yet it may well be a subject of regret and even censure that he should have suffered that distrust to become morbid and irrational. And again, some merit may be found in his undue timidity, in the contrast which may be drawn to those who, without regard to the public welfare or individual modesty, eagerly and rashly

rush after high positions in the government and in the scientific and industrial walks of society, without any of those qualifications of nature and education which fit them for the proper discharge of their duties—those who from day to day shamelessly enjoy the emoluments and honors of positions to the discharge of the duties of which they bring no corresponding qualifications and return no equivalent.

It may be added that this persistent practice in rejecting high official positions constituted one of the main elements of Mr. McMahon's power in the State.

In a letter addressed to him by a leading member of the county bar, this view is so well expressed that an extract of the letter is given :

“ . . . January 29, 1844.

“ DEAR SIR : Allow me to say that neither my friends nor myself overrate your influence. I do not think that being a wordy partisan is necessary to obtain strength. On the contrary, men of that character are far the most ephemeral both in popularity and power. The other night in a circle of friends at my house the question was started how it was that you had acquired such influence with men and affairs.

“ And it was answered, and answered truly, that it was not only by your innate force of character and your eloquence, but from your very position. Hitherto you have held yourself aloof from all *rewards*, and you have thereby demonstrated conclusively the disinterestedness of your motives and opinions.

“ Without being scarcely conscious of it, you have acquired a potency with your friends that but few men can pretend to.

“ Add to this that your commanding position is not the result of patronage or any adventitious circumstances, but from native talents, generosity of character, and from having conducted yourself in all the private relations of son, brother, friend, and citizen, as adorns humanity. Excuse me for saying this much, but you have called it out by your self-renouncing disparagement.

“ I am truly yours,

“ HANSON B. PIGMAN.”

As time presses onward and men are carried with it from life to death, events which were of to-day, familiar to us all, soon pass from the personal knowledge of the living and become matters of history, and to many are forever lost. How few remember or have even any knowledge at this day of the memorable and tragic affair which took place on board the United States man-of-war *Somers*, while at sea in December, 1842, and which at the time formed an exciting and universal topic of thought and conversation in every class of society, in which a young officer and two of the crew were hung upon a charge of mutiny without even the forms of a trial !

Preparatory to referring to Mr. McMahon's connection with the case, it will greatly relieve the dullness and tedium of this sketch to insert Colonel Benton's opening account of that affair as found in his "*Thirty Years in the Senate*." We confine ourselves to the opening paragraphs, but must recommend the whole narrative as one of the most interesting and thrilling in the English language. He begins his review thus :

"In the beginning of this year the public mind was suddenly astounded and horrified at the news of a mutiny on board a national ship-of-war, with a view to convert it into a pirate, and at the same time excited to admiration and gratitude at the terrible energy with which the commander of the ship had suppressed it, hanging three of the ringleaders on the spot without trial, bringing home twelve others in irons, and restraining the rest by the undaunted front which the officers assumed, and the complete readiness in which they held themselves to face a revolt. It was a season of profound peace, and the astounding news was like claps of thunder in a clear sky. It was an unprecedented event in our navy, where it had been the pride and glory of the seamen to stand by their captain and their ship to the last man, and to die exultingly to save either. Unlike almost all mutinies, it was not a revolt against oppression, real or imagined, and limited to the seizure of the ship and the death or expulsion of the officers, but a vast scheme of maritime depredation, in which the

man-of-war, converted into a piratical cruiser, was to roam the seas in quest of blood and plunder, preying upon the commerce of all nations, robbing property, slaughtering men, and violating women. A son of a cabinet minister, and himself an officer, was at the head of the appalling design, and his name and rank lent it a new aspect of danger. Every aggravation seemed to attend it, and the horrifying intelligence came out in a way to magnify its terrors and to startle the imagination as well as to overpower the judgment. The vessel was the bearer of her own news, and arriving on the coast took a reserve and mystery which lent a terrific force to what leaked out. She stopped off the harbor of New York, and remained outside two days, severely interdicting all communication with the shore. A simple notice of her return was all that was made public. An officer from the vessel, related to the commander, proceeded to Washington City, giving out fearful intimations as he went along, and bearing a sealed report to the Secretary of the Navy. The contents of that report went direct into the government official paper, and thence flew resounding through the land. It was the official and authentic report of the fearful mutiny. The news being spread from the official source, and the public mind prepared for his reception, the commander brought his vessel into port, landed, and landed in such a way as to increase the awe and terror inspired by his narrative. He went direct, in solemn procession, at the head of his crew, to the nearest church, and returned thanks to God for a great deliverance. Taken by surprise, the public mind delivered itself up to joy and gratitude for a marvellous escape, applauding the energy which had saved a national ship from mutiny and the commerce of nations from piratical depredation. The current was all on one side; nothing appeared to weaken its force or stop its course; the dead who had been hanged and sent to the bottom of the sea could send up no voice; the twelve ironed prisoners on the deck of the vessel were silent as the dead; the officers and men at large, actors in what had taken place, could only confirm the commander's official report; that report, not one word of which would be heard in a court of justice, was received as full evidence at the great tribunal of public opinion. The reported confessions which it contained (though the weakest of all testimony in the eye of the law, and utterly repulsed when obtained by force, terror, or seduction) were received by the masses as incontestable evidence of guilt. The vessel on which all this took place was the United States man-of-war Somers, her commander Alexander Slidell Mackenzie, Esq., with a crew of one hundred and

twenty all told, ninety-six of which were apprentice boys under age. She had gone out on one of those holiday excursions which are now the resource of schools to make seamen ; she had crossed the Atlantic and was returning to the United States by way of the West Indies, when this fearful mutiny was discovered. It was communicated by the purser's steward to the purser, by him to the first lieutenant, by him to the commander, and the incredulous manner in which he received it is established by two competent witnesses, the lieutenant who gave it to him, and the commander himself, and it is due to each to give the account of this reception in his own words. And first the lieutenant shall speak : ' I reported the thing (the intended mutiny) to the commander immediately. He took it very coolly, said the vessel was in a good state of discipline, and expressed his doubts as to the truth of the report.' "

The account of Colonel Benton, as far as it is given above, was intended to show the view which the commander and his confederates had thrown out upon their first arrival, and by which they purposed to forestall public sentiment and prejudice the popular mind in advance of the real facts and truth of the case. The residue of Colonel Benton's review is devoted to showing, which he does in a cool, clear, and conclusive manner, the groundlessness of this desperate proceeding, and the delusion, falsehood, wickedness, and cowardice of these parties in this imaginary mutiny.

The Secretary of the Navy at the time was Abel P. Upshur, of Virginia. The eyes of the country were directed towards him and the action he would take in the matter. Though no court of inquiry was invited, the Secretary ordered one, and subsequently a court-martial. Impressed with the importance of having the government represented by a proper Judge Advocate, and after maturely considering the subject, he designated Mr. McMahon for this solemn duty, and in his letter to him tendering him the appointment he departed from the usual course in such cases, and strongly

appealed to him to accept the trust. Nothing could better illustrate the standing of Mr. McMahon at this period before the country than such a letter from such a source as Judge Upshur :

“NAVY DEPARTMENT, January 30, 1843.

“SIR : The very great interest which is felt in the result of the trial of Captain Mackenzie, and the sincere desire which I feel so to conduct it as to meet the approbation of the public, induce me to hope that I may obtain your services as a joint Judge Advocate with Mr. Norris. Your position before the country is such as to insure that your name will give to the proceedings of the court their just authority and impressiveness, and I know not where I can find any other person on whose standing with the country I would so safely rely to produce that desirable effect. As the charges and specifications are already prepared, you will have no trouble except in the mere conducting of the proceedings in court. Allow me to hope that you will as far as possible yield every objection of mere personal convenience to the high consideration of the importance of your services in satisfying the public mind upon this exciting subject.

“I am respectfully your obedient servant,

“A. P. UPSHUR.

“To J. V. L. MCMAHON, ESQ., Baltimore.”

At the same time Mr. James W. McCulloh, a distinguished and widely known man, and at the time First Comptroller of the Treasury, addressed Mr. McMahon the following letter on the same subject :

“WASHINGTON, January 30, 1843.

“JOHN V. L. MCMAHON, ESQ.:

“MY DEAR SIR : I hear that you have been requested to become Judge Advocate in the trial of Captain Mackenzie ; and because the case is one of profound interest, not only to the bereaved and the accused, but to the whole country, as it shall for ages affect our navy, I venture to entreat you, as I do with all my heart, to gratify their request.

“You could not otherwise so well recognize the compliment that is thereby paid to your personal and professional merit, and you ought neither to be nor seem indifferent too often to such proofs of sincere respect and absolute esteem.

“The occasion is one when the country will rightfully expect the executive to invoke the services of one who by universal consent would be hailed as a suitable prosecutor; one whose talents, learning, experience, and virtues offer guarantees to all immediately and remotely concerned, ay, the most positive assurance, that its facts shall be established and the law be applied to these—in a word, that justice shall prevail.

“My duties are so engrossing as not to have allowed me opportunities to read all of the published reports of the proceedings before the Court of Inquiry, nor do I know what their decision has been. But I have read Mackenzie’s narrative, and parts of the testimony given by witnesses produced by him, and on these I have formed the opinion that Spencer never seriously intended to attempt the mutiny about which he talked.

“The paper, which named three confederates, of whom one had betrayed the seeming plot, and mentioned five or six uncertain accessories, and some eight or ten who were to be made, *volens volens*, to unite in overpowering eighty!!! a *score* of unarmed, reluctant mutineers!! ought not, I think, to have filled the Captain, Lieutenant, and subordinate officers, armed cap-a-pie as they were, or might have been, into apprehension so fearful as to have tempted them to be accusers, judges, executioners, and at last pharisees challenging homage and honors for the sacrifice of virtue on the altar of justice!!!

“The whole proceedings of Captain Mackenzie have been so opposite to what I think those of a brave and just man, situated as he was, should have been, that I have not allowed myself to speak of them, but to you I may say, however, that I am apprehensive that he was prompted to execute Spencer by idle fear, heartless tyranny, and base ambition; that he sped his arrow at a shining mark—the family, including an inoffending mother.

“I know that discipline must be strict and command absolute, if the navy is to be either useful or honorable; but I also know that those to whom command is given must be held as strictly answerable for the close observance of regulation and law, if we would not subject innocent subordinates to the dread calamity of being hurried ignominiously into other worlds by the fiat of cowardly, cruel, and ambitious superiors.

“You are called by our country to see that justice be done in this deplorable case; and I repeat my entreaty that you will obey their call. It is a merited and a deliberately bestowed compliment by those

who esteem you and are entitled to your regard, and in the dispensation of justice an able prosecutor is indispensable one also who is incapable of being a persecutor.

“Mr. Norris was asked to take part, and he will, if agreeable to you, be expected to do so still, I suppose, ...

“Ever yours,

“J. W. McCULLOH.”

After all these appeals McMahon yet declined this service. No excuse that may be suggested by any one can relieve him from the censure which this act justly brings upon his memory. It certainly constitutes one blur, if there be none other, upon his professional reputation. In thus declining this solemn duty he not only disregarded the call of his country, but he turned a deaf ear to the appeals of the parents, the widow, family and friends, many of them powerless and friendless, of those who, many supposed and still believe, had been murdered in cold blood and in cruel cowardice. His course on the occasion is indefensible, and but for affectionate tenderness for his memory, harsher terms might with propriety be hurled against him for not only neglecting his own reputation, but for abandoning others who leaned upon him in their hour of trial. His conduct is the more reprehensible because he was then in the zenith of his manhood, and was in the active practice of his profession.

It will not be deemed out of place to add that the proceeding proved entirely abortive, and every appeal that was made for redress by the unhappy survivors to our courts of justice resulted in failure and disappointment. Colonel Benton justly remarks, in this connection: “It was the crime of individuals: it was made national. The protection of the government, the lenity of the courts, the evasions of the judiciary, and the general approving voice, made a nation’s

offence out of the conduct of some individuals, and brought reproach upon the American name."

The administration was not united, as may well be supposed, upon this absorbing question. Judge Spencer sought to vindicate the memory of his unhappy son, while Judge Upshur was disposed to sustain Mackenzie. The cabinet was further divided, and it is believed the President inclined to take sides against Mackenzie. While a subject of discussion in a cabinet meeting hot words passed, and after the meeting adjourned the two venerable ex-judges—Spencer and Upshur—actually came to blows, the latter having, not much to his credit, assaulted the heart-stricken Spencer, for whose conduct and unbecoming warmth, however reprehensible, and even insulting, every generous heart, it would seem, should have found forbearance and forgiveness.

CHAPTER XI.

The offices of Chancellor and Chief Justice at his disposal—Singular prejudice—The Chief Justice and the franchise—Mr. McMahon's practice at the Court of Appeals—The talent of Maryland there arrayed—Intimacy with Mr. Johnson since 1825—Tribute to the latter—McMahon's professional integrity and vanity—A contrast to political modesty.

WHEN the pure and unsullied no less than the learned Theodoric Bland died and vacated the chair of Chancellor, which he had filled for so many years with ability and integrity, Mr. McMahon was tendered, by Mr. Pratt, then Governor, the vacant office, which he declined. Immediately after, the Chief Justice (for upwards of thirty years) of the State, John Buchanan, the model of grace and dignity, as well as of erudition and justice, before whom it is an honor to have practised, departed this life—an event which at the time fell like a pall upon the justice-seat of Maryland. Representing the western judicial district of the State, whence McMahon had come, and where his interests and affections still clung, all eyes turned to him as the appropriate successor of the venerable Buchanan. Governor Frank Thomas, and subsequently Governor Pratt, each in turn tendered the vacant judgeship to McMahon, but, in pursuance of a habit that had become chronic, he declined also this honor.

In speaking of these matters afterwards, he remarked, after high eulogies upon these departed jurists, that it would be a bold man who would venture to ac-

cept their vacant places. But he had too much vanity and too high an appreciation of his own attainments to assign any such reason for *his own* non-acceptance, and in fact no such reason influenced his conduct in the premises.

When we shall duly contemplate the wonderful natural gifts, the splendid attainments, the noble though mysterious ambition, and the incorruptible integrity of this man, we shall be at a loss to imagine what motive, what secret spring, what fear, what love, what doubt, could have impelled him to reject these tempting opportunities to enter a field so expansive, and so rich with all that could stimulate human emulation, evoke eloquence, reward learning, advance private fortune, promote fame, and gratify virtue! We shall be at a loss to estimate to what height his reputation may have attained or what fruits may have resulted to his country and to the world by his well-directed efforts from high places like these! But still he did reject them, and continued to lead a life of seclusion and comparative obscurity, though not of idleness or inaction, but one of severe labor, the fruits of which fell mainly upon the ears and minds of unappreciative jurors and upon unfrequented courts, like water upon parched sand, leaving no trace, and "which could not be gathered up again."

It may be recorded as one of the weak and reprehensible traits of Mr. McMahon's character, as illustrated by what has already been stated, that he dreaded antagonism—he shrunk from anything like a contest with superiors or even equals, and such was his timidity that he often imagined that he saw before him superiors and equals in those who in all particulars were his inferiors, and who in a fair contest would have paled before his power and learning like stars before

the twilight of the approaching morning. To these motives may doubtless be attributed the fact that he never would appear, though often solicited, in the Supreme Court at Washington. In that august tribunal he feared he would have found himself over-matched, whereas if he had measured himself by a just standard he would have realized that he was the peer of the ablest who attended this court, and more than the equal of a great majority of them.

Notwithstanding this apparent indifference to political promotion, Mr. McMahon always took a deep interest in public affairs, and he made it a strict duty, which he scrupulously performed, to vote at every election. His course in this respect presents a striking and favorable contrast with that of the late Judge Taney, of whom it is alleged that he never cast a ballot after his elevation to the office of Chief Justice.

If this averment be true—and it is generally believed to be well founded—it constitutes the greatest and perhaps the only blur upon the public character of the venerable and beloved Chief Justice. It was wrong in theory and in practice and bad in example. In a country like ours it is no less the duty than the privilege of every citizen to participate in directing the affairs of the government, and the higher the position, moral, intellectual, and official, a citizen may occupy, the greater this obligation. In the Athenian commonwealth the citizen who took no part in public affairs was deemed indifferent to the public good and was branded for his neutrality. It is no excuse for the omission of this duty that it is sometimes performed in a manner unworthy of its great obligations. There is a becoming way to discharge every act of duty in life. It should be done with firmness and dignity, and an opposite course often misleads us to condemn that which

if becomingly performed would meet our highest approbation. Thus while we would not have had the Chief Justice to enter into the demoralizing details so often attending the workings of our political system, we cannot excuse him from withholding his great name and noble influence from the higher and legitimate operations of a free government.

This course was doubtless pursued under an impression that it would best preserve the judicial service from even the suspicion of taint from political bias. In this the Chief Justice paid his own lofty integrity a poor compliment, and leaves behind him an example that no friend can commend for imitation. Because he wishes his government well, because he thinks its greatest good can be promoted by the advocacy of particular measures and men, and even further because he should please out of motives of patriotism to urge upon his fellow-countrymen a particular line of public policy in the administration of the government, these surely can constitute no reason why he could not be able to administer justice fairly and impartially to every man according to his deserts.

The same line of argument would have led him to have abandoned his religion and shut his door against his friends. Every relation of life, public and private, however noble, however tender, perhaps tends, more or less, to create prejudices, likes, and hatreds, and while we are looking for a judge to sit in judgment between man and man we should rather seek to find one with strength enough of character and integrity to surmount those weaknesses than one so cold and hard as to be without them. Prejudice is almost inseparable from our nature, but to be able to triumph over it is perhaps the greatest achievement of which human

character is capable, and no man is fit to fill the judicial chair who cannot rise to such a victory.

If this course was right for him it would be equally right for all similarly situated, and to what results would his example lead? No judge, justice of the peace, or any man liable to jury service should ever vote or participate in public affairs for fear he might be led into prejudices and consequently false judgments in the discharge of his duty. While we are thus endeavoring to preserve the purity of the judiciary, is it not apparent that we are robbing the ballot—which, as our country is at present organized, is behind and even superior to the judiciary—of its power and its purity? It is no answer to these objections to say that the dignity and imposing obligations of the office of Chief Justice should require a higher order of integrity, and on that account should be the more sedulously guarded from even the suspicion of partisan bias. The obligations of a judge, from the highest to the lowest, are precisely the same, and they are to administer justice with integrity and impartiality; and the discharge of these obligations in no sense involves the neglect of other inferior duties which our relations to man and society impose.

Chief Justice Marshall did not so think or act. He participated, in a dignified manner it is true, in political affairs until the day of his death—was even Secretary of State while he was Chief Justice. Our own Chief Justice Buchanan did not so think and act, nor did Judges John Stephens and Jno. T. B. Dorsey. The two former while on the bench were elected electors of President and Vice-President in Mr. Monroe's day, while Judge Dorsey was a candidate for the same position against General Jackson in 1828, but was defeated. Chief Justice Smith of New Jersey, that great

and good man, while on the bench was one of the electors chosen in favor of the elder Adams, and stumped the State in his behalf. A hundred other instances might be cited without a single example of judicial corruption or impropriety resulting therefrom, except perhaps in the case of Samuel Chase of Maryland, and even he was honorably acquitted by the United States Senate of such a charge.

To speak in becoming terms of Mr. McMahon's forensic displays in the Court of Appeals during the period of his active practice in that tribunal—not of the strength and solidity of his arguments alone, but of the beauty and eloquence of language and fancy with which they were clothed—would extort now a smile of incredulity from the reader. Often in the Court of Appeals, with but three weary, worn-down auditors upon the bench, who had been listening day in and day out for months to long, tedious arguments, and who had become almost insensible to flowers of fancy or the beauties of elocution in the dry details of legal argument; with a languid, listless clerk or two whose ears by constant listening for a quarter of a century had become dead to all beauties of thought or language, and who generally, by habit, selected such occasions of oratorical displays before the court as the fittest time to snatch unobserved their daily nap; with these often as his only audience, he would yet pour forth such streams or rather torrents of forensic eloquence as would have charmed admiring Senates and lashed to frenzy a sympathizing populace. When it is remembered how eloquence above all the fruits of genius is always appreciated and admired, and how many gladly would have come from a distance to have heard these displays if they had known when they were to have been made, it always impressed me with something

like a feeling of pity to witness these efforts of Mr. McMahon thus thrown away upon such small and what seemed such unappreciative audiences, and with none to make record of them for future generations. On one such occasion, the Chief Justice, Le Grand, was especially attracted by this state of incongruity—with eloquence without an audience or due appreciation—and calling the attention of his nearest brother on the bench to a particularly brilliant passage in Mr. M.'s speech, at the same time pointing to the only two clerks present, one of whom was reading a newspaper, and the other asleep, his face flushed with indignation, and with suppressed yet audible language he broke forth in a vituperative strain against the neglect of talent and the perishable fruits of genius.

This was afterwards spoken of as an effort that would equally have charmed an indiscriminate audience by its eloquence, as a learned bench by its irresistible logic.

The first appearance of Mr. McMahon before the new Court of Appeals under the constitution of 1851 was in the case of *Young v. Frost*, reported in 1st Md. Reps. Though his *argument* was powerful and perhaps conclusive, it was so magnificently decorated by the figures of fancy that the members of the court, not familiar with his style, found themselves so much dazzled and bewildered by his eloquence that they lost sight of his logic and argument—it was so at least with one. But this did not long continue.

The previous Court of Appeals were ever profuse in their praises of this great man. He was the admiration of Chief Justice Buchanan and a favorite theme of his conversation. After he had concluded his argument before the Court of Appeals in the great case involving the power of taxation (*Baltimore City v. Gor-*

don, 5 Gill, 231), Judge Dorsey came down from the bench evidently laboring, though by no means an emotional man, under a state of deep feeling produced by the speech he had just heard. Turning to a prominent member of the bar near him, and raising both hands, in a suppressed voice he said : " I never in all my life heard such a speech, and should I live a hundred years do not expect to hear such another."

Yet all that is left of record of this great effort in the report of the case is that it was " argued for the appellee by J. V. L. McMahon." Well might Le Grand lament over the neglect of genius and talents as illustrated in this instance !

To refer to the great arguments of McMahon before the Court of Appeals would be simply to enumerate the cases in which he had appeared, for there was hardly any difference in his arguments. It was not necessary to connect him with a case involving large amounts or questions of great public interest to evoke the full powers of his mind. He was generally as great in small cases as large ones, and it was the principle of law and not the amount that aroused his noblest effort. In this respect he stood alone, and far above any lawyer in Maryland—in the present or the past. A beggar with McMahon as his counsel might repose in security, with as much confidence that justice would be done him in every step of his case, as if he were a wealthy banker or merchant. In the little case of *Ellicott v. Lamborne*, in 2d Maryland Reps., his argument was as complete a treatise on pleading as if it had been prepared for publication for the student or practitioner, and doubtless as such would have been regarded by the profession as a perfect production as far as it went.

Had it not been that the Court of Appeals was so

often literally crushed physically and mentally by the weight of long, heavy, pointless speeches and often upon questions involving neither law nor property, they would have approached with unalloyed pleasure the consideration of records which were to be elucidated by Mr. McMahon and his noble compeers. Every day that passes, owing to the great travelling facilities for members of the bar to follow their cases to the Court of Appeals, renders less frequent those splendid combinations of professional talents in individual cases which was once so common in Maryland, even as late as the time of Mr. McMahon. A judge would have been indeed insensible to the impressions and the awe which genius and learning should always inspire if he could look from the bench with indifference upon the bar surrounded as it often was in latter days by McMahon, Chambers, H. W. Davis, May, Campbell, Brent, Dulany, Mayer, and others who are departed, not to speak of the living, arrayed not only in the armor in which their general learning always encased them, but armed for the occasion with the weapons of special preparation. Notwithstanding the first reading of the record and briefs would often so irrevocably decide a case in the mind of the court that all subsequent argument would be futile and useless, yet it was always a noble intellectual treat to witness the struggles of these men in support of their respective theories of the case.

It is not always proper or in good taste to speak of the living in such a connection. The truth if not pleasant is considered cruel, while praise is regarded as flattery. But the history of Mr. McMahon is so intimately connected with that of Mr. Johnson that the one could hardly be written without reference to the other. There was so small a difference in their ages that they

were for all purposes contemporaneous as to points of time and history. From their early manhood they were intimate, and their intercourse, personal and professional, was always close and even familiar.* Since 1825 there have been few important cases in Baltimore in which they did not appear upon one side or the other. We are not aware that their conflicts at the forum ever resulted in any personal difficulty or estrangement. They were both influenced by gentlemanly impulses, and with such guides it was not likely they could be brought into hostile collision. But as men and as lawyers they were widely different. Mr. Johnson in his nature is open, easy, familiar, and accessible by all. He is even playful and simple in his manner, and his great traits of mind and character are never discoverable except when called forth by an occasion which requires their development. He is impulsive in his nature and disposed to enter precipitately into every appeal that is made to him, without due regard to consequences and often without reference to the merits of the question, and consequently in his good-natured zeal he often promises more than he can perform. As a friend he is cordial and true, and as an enemy forgiving.

Mr. McMahon in many respects was the opposite in all these traits. At first he was rather austere in his demeanor and not easy of approach. He was more dignified and formal, and in his manner and bearing not generally cordial, and he was never willing that his unquestioned claims to pre-eminence should be overlooked. His vanity was ever prominent, and he was inclined to egotism. Naturally no doubt he was impulsive, but this trait he had so far subdued that over-

* Mr. Johnson's recent death makes this comparison all the more interesting.—ED.

caution had taken its place. He was faithful to his obligations to his fellow-man in the highest degree ; he was slow to promise, but he invariably fulfilled more than he had undertaken. He was a true and steady friend, but an unforgiving though by no means a vindictive enemy. Notwithstanding his strong traits of character and impetuous nature, he had used education for the purpose of subduing prejudice, and he was therefore impartial in all his judgments.

Education, one of the great objects of which should be to conquer prejudice, seems instead, in many cases, to be employed to promote it. All our schools and colleges set out upon the assumption that certain theories, many of them patently false, are established beyond the power of controverting them, and all subsequent instruction must rest upon the correctness of that assumption. Truth should be the aim of all education, and no system is therefore perfect that does not invite and even require an examination into every question of science and morals which is not self-evident or does not rest upon the revelations of God.

No term in the English language is so little understood and so often perverted as *prejudice*. It means, as its derivation indicates, a pre-judgment—that is, a conclusion drawn upon a question from an imperfect and partial consideration or upon incomplete data. The general and popular idea of the term is that it is a strong and intemperate manifestation of approval or disapproval of persons and things. This notion is erroneous. Extreme likes and hatreds are perfectly consistent with a maturely and correctly formed judgment, while the most mildly and charitably expressed opinions may be firmly entertained upon the most erroneous and imperfect investigation. Harsh and severe men may be free from prejudice, while the most amia-

ble and gentle often form irrevocable and unjust conclusions upon the most insufficient data. The mind controls our judgment, while the temper or disposition imparts the degree with which it is enforced. With an intellect so trained that the fairest and fullest consideration would be given to every question, Mr. McMahon yet possessed such impetuosity of temper that after he had formed his opinion he would be apt to carry it to extremes if the nature of the subject required it. He never hated a man nor liked one without maturely considered reasons, but his opinions thus formed were often intemperately and even extravagantly expressed. His relations to the late Mr. Wirt illustrate what is meant. On one occasion that distinguished gentleman was the subject of conversation in McMahon's company, and his claim to pre-eminence as an orator was called in question. Mr. McM. remarked that he thought his opinion on that question should be entitled to some weight, for the reason that he *hated Wirt with a cordial hate*—that he had offered him an indignity when he was a very young man, for which he had never apologized, and that he had always regarded such an offence as unpardonable, yet he was constrained to say that he had always considered Mr. Wirt as the most admirable public speaker he had ever known. Whatever were his likes or dislikes for different members of the bar, he was yet always competent to measure them by a just standard—to friend and foe he could, and always did, mete out justice with a steady hand.

As lawyers these two great men, Mr. Johnson and McMahon, were equally unlike. In professional integrity in its broadest sense Mr. McMahon was unquestionably equal—indeed, it may be safely affirmed, superior to any man at the bar. It is not meant to confine this re-

mark to mere fair dealing, honorable conduct, and strict integrity in money or business transactions with clients. That would be to do injustice to many in the profession in this State, of whom it may be safely said that in these respects superiority would be impossible. But by *professional integrity* as used in this connection it is intended to embrace all of the varied and remote obligations which attach to a lawyer. Mr. McMahon never left undone or unsaid one act or word that could avail in the interest of his client. He never paused in his investigation of any case until he was satisfied it had been exhausted. With him there was nothing ever omitted by which even assurance could be made doubly sure. Can any man living, or the friends of any dead, say the same thing?

In regard to fees Mr. McMahon was equally punctilious and just. In the flush of success—with a suddenly enriched and excited client exulting in victory, with every generous pore of his heart opened by a triumph which he was erroneously disposed more to attribute to the magic power of his counsel than to the merits and justice of his cause—yet with all these seductive opportunities to extort an exorbitant fee he was never known to avail himself of them, or to charge his client more than would be considered a fair fee in the dark hour of professional defeat. He rather labored to vindicate the integrity of his profession than to accumulate wealth. While the case of *West and Flanigan*, reported in 4th Md. Reps., was under argument, Mr. Johnson took his client to one side in the court room, where he required him to count down his fee, and probably a pretty heavy one. Mr. McMahon afterwards went up to him and playfully but no doubt correctly remarked: “Why, Rev., you have charged

your client more for losing his case than I intend to charge mine for gaining it."

To continue this imperfect comparison or contrast between Mr. Johnson and Mr. McMahon, it may be added that it would be quite difficult to discover a superior to the former in view of the qualities of mind and legal education which are necessary to constitute the lawyer. In a case eliciting all of the powers and efforts of Mr. Johnson it is probable no man in this country can excel him. On such occasions Mr. McMahon surely was not his superior, and probably not his equal. With all his vanity Mr. McMahon fully realized and acknowledged the superior powers of Mr. Johnson, yet as far as is known was never jealous of him. While true courage is generally tempered by wisdom and prudence, so is greatness, even when accompanied by vanity, sometimes subdued by equal or greater power. Hence McMahon was always shy of Mr. Johnson, and whenever they came in conflict this feeling was visibly manifested by some little exhibition of trepidation or perhaps nervousness, and he seemed to invoke in an unusual degree the strength that he possessed, and his efforts on such occasions, if possible, were characterized by more than his ordinary power. Mr. Johnson has been often known to argue cases in the most slipshod, careless manner, and to pick up all the knowledge that he may acquire of them, both as to facts and law, as he proceeds with his argument. In this respect he is, to some extent at least, like Luther Martin, of whom it is related that on more occasions than one he has been known to commence his argument, through thoughtlessness or neglect, by advocating the side of his opponent, and when his attention was called to his blunder, to adroitly get out of it by saying that he was merely setting forth the arguments

of his adversary to show how easily they might be overturned. Mr. Johnson is like Luther Martin also in this—that he is never disconcerted or thrown off his guard. If he should happen to make a misstep in his case, as he not unfrequently has done, he has skill enough to appear, at least in the eyes of the jury and hearers, to turn it to his own advantage. His cool, deliberate, self-possessed manner gives him always an immense advantage over his adversaries, and possessing at the same time a pleasing elocution he has had few equals in a trial at Nisi Prius. Mr. McMahon was unlike him in both the last named particulars. In the first he was his superior, because he was never found unprepared in any case where preparation was possible; in the second he was his inferior, for the reason that he was easily disconcerted and thrown off his balance. A new turn in his case, by some undeveloped evidence or unexpected instruction by the court, invariably flurried him to a greater or less degree, and he not unfrequently under such circumstances lost for the time his temper, and even his dignity.

Mr. McMahon was not zealous in his admiration of the legal profession in the abstract, although himself, if taken as a type of the profession, in every obligation that attaches to the lawyer, as has been shown, would present it as a vocation illustrating the noblest virtue and strictest fidelity. He always spoke of the law as surrounded by more numerous and dangerous temptations than all other pursuits, and which often lead to mean and disreputable practices.

The power of a lawyer in full practice for evil, no less than for good, is unbounded. By wise counsel he may rescue many a man and his estate from ruin—may restore peace and confidence where discord and distrust before prevailed—may vindicate honor—may

protect the poor and weak—may bring light out of darkness and order out of chaos ; while on the other hand, where selfishness rises above wisdom and virtue, as is too often the case, the opportunities for the gratification of this passion are so numerous in the lawyer's life, and can be so securely covered over from public view, that there are few comparatively who are able to resist the unworthy temptation of taking advantage of those who are at his mercy. Mr. McMahon's views are no doubt expressed, in part at least, in a letter an extract of which follows, upon this very subject. It was written in the early days of our State, as far back as 1818, by a gentleman who attained perhaps to as much success and who left behind as unsullied a professional reputation as any man at the bar. It was addressed, upon solicitation for advice, to a kinsman, but the subject of it—his son—not taking the counsel contained in the letter, and being willing to encounter the dangerous temptations to which it refers, successfully triumphed over them and became one of the most distinguished and honorable lawyers and statesmen in the country. If the letter had any force in the purer days of our country when it was written, it will readily be seen that it has much more now, and hence its publication in the present connection it is hoped will not be deemed out of place. In writing of McMahon, who was so thoroughly identified with law and lawyers, almost everything that related to either may be taken as a part of his history.

CHAPTER XII.

Mr. McMahon's views of the law—Interesting letter from a colleague on the subject—Funny incidents at the Court of Appeals—Reminiscence of this tribunal—Limited travel, yet vast and familiar knowledge of the world and its news.

“ . . . LET me now speak in regard to my young kinsman. He is a very interesting, intelligent young man. He has brought with him from Europe none of that flippancy so generally imported by our young men from thence.

“ If he has for himself selected the profession of the law there is no gainsaying it, and I very much approve of your sending him to William and Mary, my Alma Mater, in preference to putting him in any lawyer's office. In a seminary of learning a man if so disposed may seclude himself from the world and may have every facility of acquiring knowledge of every kind. To acquire a knowledge of the law nothing but books and application are required. Not so in a lawyer's office, which my experience (if it be in a town or city) has taught me to consider as a very improper place to study anything.

“ But if the profession of the law has been selected by you for your son, or if you have in any degree influenced his selection, I can only say that you have done what I shall never do. Your father did not think more contemptuously of the profession than I do. A lawyer of good sense, sound integrity, profound learn-

ing, and ready elocution is an ornament to society and a treasure to his country. But is not such a man equally so in any line of life? And I will venture to say that there is no pursuit in life, short of very hard manual labor so slavishly laborious as the practice of the law, and none less favorable to longevity or health. And after all, look around you, and among the hosts of lawyers that have infested this country like locusts. See what a small proportion of them have attained to wealth or even a comfortable competence. A practising lawyer has so many opportunities of playing the knave without even the possibility of detection that a parent ought to be well assured indeed of his son's inflexible integrity, of his unshaken firmness to reject temptation in all its alluring forms, before he can justify to himself or his child the exposing him to such hazard. The bar, from my experience, is the last place *I* would resort to for men of strict honesty, undeviating truth, open, generous, manly ways or feeling, or any of those sentiments that adorn human nature. Yet they are sometimes to be found there.

"The study of the law is best pursued where there is most solitude and the fewest objects to draw from it the attention or even the thoughts of a student. To make a man a lawyer he must read much and direct his whole mental faculties to the subject. A man may be a very profound lawyer and in other respects eminently illiterate as Mr. Jefferson once observed to me of one Thomas Johnson, a very striking example.

"The manner in which you speak of the rudiments and principles of the law show you want to be cautioned on that subject. 'A little learning is a dangerous thing,' and there is no science to which the remark more forcibly applies than to that of the law. Blackstone's Commentaries is the most lucid and one of the most valu-

able works in the law library ; it in the plainest and most methodical way teaches the rudiments and first principles of the law. My father never would suffer a student to look into it until prepared for it by two years' close study. His reason was (and he was right) it made a lawyer of a young man of genius in his own opinion in a month, and two years' mortifying application, if you could succeed in obtaining it, were necessary to convince him he knew nothing and to place him in a proper state of mind to renew the study profitably."

Whoever, like McMahon, can pass this fiery ordeal with unimpaired integrity, presents an example worthy of the highest commendation and honor. To the credit of human nature it may be recorded that there are and have been many in the legal profession who can claim the same distinction, but none, it may be safely affirmed, in a higher degree than the subject of this sketch.

Although Mr. McMahon's intercourse with the bench was in no sense marked by subserviency—indeed, on the contrary he was ever prompt to assert the prerogatives of the bar—yet he was with every court in which he practised a great favorite. The kindest and even most intimate relations existed between him and the members of the old Court of Appeals, although they were all older men than himself. They used invariably to address him familiarly either as "Mac" or "Mr. Mac." Judge Buchanan, than whom no man was ever fonder of society, especially good company, or more discriminating in his selections, in his leisure moments would hunt about the hotel for "Mac" till he found him, and they would soon be closeted together enjoying the sprightly conversation of each other. Even the stern and rigid Judge Dorsey would always relax in his company. During by far the greater

part of the sessions of the court Mr. McMahon, no less from choice than from the calls of business, would be present, but if anything carried him away from Annapolis, his return would always be cordially and even in a demonstrative manner greeted by the judges. All this resulted from his frankness and sincerity of character, his cheerful and kind disposition, and his very agreeable powers of conversation.

He continued always devoted to Annapolis. Often during the recess of the courts and the Legislature, when animation was almost suspended in the "ancient" city, he could be seen for days at a time loitering or wandering alone about her deserted streets, and apparently indulging in study or revery. He seemed to have a special liking for the people of Annapolis, and they in turn held him in the greatest admiration and affection. He always maintained that from a careful examination of the subject he could pronounce the climate of Annapolis, embracing all seasons, as the most delightful on the globe, and he was not at a loss for foreign authority to sustain his position.

He was equally unrestrained in his intercourse with the judges, and if perchance he could pick up a joke or anecdote upon any of them he would take especial delight in giving it publicity. He also would good-naturedly retort upon or rebuke any one of them when occasion required.

One winter the court was very slow in filing their opinions, and in many cases of importance they gave decisions without even filing any opinion, and, as Mr. McMahon said were, "very lazy," and he did not hesitate to complain of them, and even to their faces.

One morning, at this period, Mr. Johnson walked into the court-room and joined a group consisting of Judges Buchanan and Chambers, Mr. McMahon, and one

or two others. After the usual salutations, Mr. Johnson complained of his hard work, of being worn down, tired, and the like. McMahon turned to him and playfully but pointedly remarked, "Rev, why don't you go on the bench?" This instantly fired Judge Chambers, who was very quick in temper as well as in retort, and who fully appreciated the remark as a fling at the court, and he began a sharp reply, but before he had uttered the first sentence McMahon had glided into the adjoining room.

About the same time, perhaps the following June term, a plain, honest, unsophisticated old German from Washington County named Doub was in Annapolis anxiously awaiting the final disposition of an important case which he then had pending before the court. McMahon was the counsel against him. Doub did not confine his importunities for an early hearing to his own counsel, but he took McMahon also severely to task for his tardiness in not pressing the case. He took to Doub at once, as containing an inexhaustible well of humor, fun, and originality. In response to Doub's accusations, he charged the delay upon the court, and advised him to go to head-quarters and lodge his complaints there, and directed him especially to Judge Dorsey—"the old judge who, like yourself, has no hair on his head." Accordingly Doub went in search of the judges. He found them after dinner seated under the trees at the hotel, taking their ease in sprightly and agreeable conversation. Doub, unabashed by their august presence, boldly approached the party, and, according to his instructions particularly directing his assault against Judge Dorsey, inquired in his German accent why he could not have his case disposed of. They were all struck and favorably impressed with the frank, simple, and good-natured man-

ner of the old Dutchman. McMahon, expecting the *dénouement*, had in the mean time unobtrusively joined the party. Judge Dorsey very civilly replied that as soon as "we get time we will take up your case." This was too much for Doub. "Get time!" he exclaimed; "why, what are you doing now? Nothing! Why can't you try the case now?" Before Judge Dorsey could rally and respond he followed up the assault with this additional pertinent question, "How much wages do you get?" Judge Dorsey told him. More than ever the old man was astounded. "Why," he added, "my men only get ten dollars a month, and they never stop work till sundown." McMahon was overwhelmed with the success of the joke, though the judges never suspected that he was at the bottom of it. He was often very witty before the court. Mr. Charles F. Mayer in one of his arguments in the Court of Appeals cited "Drake on Attachments," then a new publication. Mr. McMahon sneered at the authority and remarked that judging from the character of the book and the name of the author he would judge it was the production of a professional quack! When Mr. Mayer came to reply, he protested that "it was not fair to consign his authority to a condition of quackery simply because of the unfortunate name of the author."

Mr. McMahon was not only always prepared for his cases, but thoroughly prepared, and indeed if there is any ground of complaint on this point it was that he was too well prepared, if such a thing be possible. By this is meant that he elaborated his cases too much—he devoted study and learning to questions far beyond their exigencies—his investigations never ceased—he piled up authority upon authority upon the same point and often cited cases that had no weight of authority in

them. He was slow in the incipency of a case in intimating even an opinion, and appeared never to be satisfied. After having arrived at an impression, he seemed to labor to find out if his own positions could not successfully be assailed, and so far from being influenced, as most men are, by the pride of opinion, he would actually appear to exult in upsetting his own conclusions. But when investigation was at length ended and an opinion was once formed and announced, he who rested upon it might feel that he stood upon a rock.

His briefs prepared for the Court of Appeals were full, clear, and systematically arranged. It would take a very critical lawyer to discover that anything could be added to them by subsequent oral argument. Yet the ribs of the hull of a vessel upon the stocks could no more be compared to the same full-rigged ship riding upon the waters than could these briefs be compared to the eloquent and logical oral arguments that were subsequently based upon them.

As a lawyer he had one peculiar and commendable trait. He was entirely free from the vice so common to the legal profession of falling in with and encouraging the prejudices, caprices, and passions of clients, regardless of the principles of justice involved in their controversies. He consequently never encouraged but instead always discountenanced unnecessary litigation. In this particular he seemed to follow the example of the late Mr. J. T. Mason,* of whose peculiarity in this respect he used frequently to speak and to narrate many anecdotes. To him Mr. McMahon attributed what is

* Father of the biographer, and, like Mr. McMahon, offered, and by him refused, the Attorney Generalship of the United States under President Jefferson.—ED.

now the old, commonplace witticism as to what is likely to secure success in a party going to law, viz., "That he must have a good case, good witnesses, a good lawyer, a good deal of money, good luck, and much patience; that under such circumstances it was *possible* for him to win!"

He never undertook a case or sympathized with a client, it may be safely affirmed, in an unjust cause, however tempting the fee that might have been offered; much less did he ever advise a legal proceeding contrary to his own convictions of justice. Lawyers, and often the most eminent, are too apt to consent to undertake cases, and even to advise them, more to gratify the cupidity, vindictiveness, or spirit of fraud in their clients, than to vindicate the right or to promote the ends of justice. With such conduct Mr. McMahon was never chargeable. He even ran into the opposite extreme, and would often withhold, out of abundant caution, his approbation in cases that were manifestly just and proper until he had almost lost the confidence of his client. Like Mr. Mason, it was a common practice with him to argue a point against his client, and to raise objections to his recovery so long and so earnestly that the latter was almost driven to abandon his case as hopeless, or to fly to some one else more sympathizing. To illustrate this peculiarity an anecdote may be cited. He was associated with Mr. Johnson in a case of great importance. Their client, an enlightened citizen of Philadelphia, was a stranger to him. By his extreme caution and long-withheld confidence from what the client supposed to be the manifest merits of his case, the latter began to doubt either the ability or fidelity of his counsel, or perhaps both; he therefore soon centred all his hopes upon Mr. Johnson, who perhaps erred in the other extreme. The latter had a

pressing engagement at Washington at the time, and asked to be excused when the case was called, assuring the party that his interests would be safe in his colleague's hands. The client protested earnestly and warmly against such a suggestion, and was greatly distressed at the mere thought of losing Mr. Johnson's valuable services. The latter yielded to his wishes and remained. The case progressed, and presently McMahon came to make the opening speech. He dashed off and continued with such power, clearness, and eloquence that it was impossible to resist them. In the midst of his argument the intelligent client, no longer in doubt about the ability or fidelity of his counsel, arose from his chair and on tiptoe quietly approached Mr. Johnson and whispered in his ear, "You may go to Washington."

This anecdote illustrates that those who reposed their confidence in McMahon rested upon a foundation of moral and mental strength against which the allurements of flattery or the seductions of money could not avail, and which only a rare tornado of intellectual power superior to his own might move.

Numerous anecdotes might be mentioned illustrating the high moral tone that governed Mr. McMahon's professional conduct. One will suffice. Towards the latter part of his life he was retained in eight cases, similar in their nature, involving some questions growing out of the revenue laws. He had a distinguished member of the Baltimore bar associated with him. He received a retaining fee of \$200 in each case. The time for the trial was approaching. In his usual desire to know all about the questions involved, and to exhaust investigation, he determined to go to Philadelphia, where a series of these same cases was about to be tried, and where he might post himself about the

facts better than he could learn them from his clients. Having few or no personal acquaintances in Philadelphia he took a retired seat in the court-room, where he was a silent and attentive though an unobserved listener. In a few days after his return to Baltimore he called upon his colleague, and stated that professional engagements in the Court of Appeals at Annapolis would prevent him from appearing in the cases in question. Mr. T. protested against his withdrawal, and ventured to suggest that the Court of Appeals would willingly indulge him under the circumstances. No! His mind was made up. Returning the \$1600 contingent fees, he withdrew from the cases. Mr. Meredith took his place. Long after the controversy had ended, in conversation upon the subject McMahon confessed that the true reason why he had withdrawn was that he had been satisfied by what he had heard on the trial at Philadelphia that so far from his clients having any merits in their cases, they were actually founded in gross and glaring fraud. His associate rebuked him for not giving him this information before the trials came off. He responded that the latter knew nothing of the fraudulent nature of the transactions, and that it was no part of his business or obligation to instruct counsel about the facts of their cases or to suggest to them their line of duty. He had only to control his own conduct.

Mr. McMahon was sometimes influenced by *small* ambitions. One of these was the desire to be on the winning side of his case. He always had an eye to popular applause, and as the vulgar mind can never see any merit in any effort unattended with success, he naturally looked to success as the certain road to popular favor. It followed that he was very coy, especially in his latter years, how he entered into any case,

lest he might find himself on the losing side. To such a reputation had he attained that he could almost select his cases, especially those pending in the Court of Appeals, but he rarely suffered himself to be retained unless it appeared clear that the law and merits were with him. His learning and sound legal judgment led him, with the record before him, in almost every case to unerring conclusions. Hence it will be readily seen how easy it was for any one with such advantages to be generally on the victorious side. During the latter years of his practice the reports show that he rarely lost a decision. For seven years after the new court of 1851 had qualified, although he argued a very large proportion of the cases, it will appear from the reports that he lost but one or two in all that period. This fact led to the remark, rather sarcastically made by superficial and small-minded lawyers, that Mr. McMahon must have had some undue personal influence over the court to be thus always successful, while Johnson, Nelson, Schley, Steele, Alexander, Scott, Wallis, Mayer, Brent, and others, supposed to merit equal weight, lost fully one half of all the cases they argued. These latter gentlemen were lawyers by profession; the law was their business, and they did not pause, like McMahon, to consider the merits of the several cases entrusted to them. They considered that the obligations of conscience were fully discharged if they presented to the court the best view of which their client's cause was susceptible, and this they usually did with a zeal and ability rarely surpassed. McMahon's practice was, as has been shown, very different, and being not more an ambitious man than a truly conscientious one, it would be unjust to his reputation to attribute his conduct in this particular exclusively to the first rather than to the last named motive.

Another of his small ambitions, particularly in his earlier years, was the desire to impress his audience, especially the gentler sex, by his personal appearance and manner and by dramatic acting. He has been charged on more occasions than one with having affected through deep emotion to swoon or faint during some of his popular harangues, and to have fallen in the most graceful and studied manner into the arms of some friend standing near. This happened while he was making his inaugural address as president of the Young Men's Whig Convention in 1840 at Baltimore, and also while addressing the Legislature upon the indemnity question in 1836.

If these charges are well grounded, they only prove that greatness is not always free from weakness, and an apology may be found for them in the distinguished examples of similar infirmities furnished by Chatham, Pinkney, and perhaps others that might be cited. But it may be affirmed as almost a universal rule, that men of real genius, and of a brave, commanding, and lofty spirit, are not often found without simplicity of manners, character, and dress, and the instances that have been cited are rare if not solitary exceptions to this rule.

In the nobler phases of Mr. McMahon's character, however, we can find enough to cover over and conceal, all such harmless defects and yet leave him unshorn of those traits which command universal admiration and approval.

Mr. McMahon's life affords a striking illustration of the fallacy of the general impression, or of its universality at least, that travel is necessary to expand the mind, remove prejudices and provincialisms, and to enlarge our stores of knowledge. Few men had a more expanded intellect, fewer prejudices, or a larger share of informa-

tion, yet no one in his sphere of life went less frequently from home or confined his movements to so narrow a circuit. The opposite of what Humboldt is reported to have said of a certain American traveller, namely, "that he had travelled more and seen less than any other person," was true as regards McMahon. He had travelled less and yet knew more than most men who have made the round of the globe. He had never been even in the city of New York, nor further north than Princeton, and it is quite probable he was never south of the Potomac. He occasionally made visits to Dayton, Ohio, where he had relatives, but his summers were mostly passed in his native county, Alleghany, where he delighted to rove the mountains and enjoy their sublime solitude. He was never a frequenter of watering places or other places of amusements, nor did he take pleasure in mixing in crowds. Although he was a genial man and fond of society, yet in silent and retired scenes he took great delight, and from his observations of the beauties of nature and the common affairs of life he derived chiefly those images, illustrations, and anecdotes which always furnished a rich repast for his audience. Possessed of great sensibility and a rich and lively imagination, he was accustomed more than any other man to clothe the abstractions of law in the garb of sensible images, to illustrate his conceptions by frequent allusions to the most striking scenes in nature and life.

Notwithstanding his retired habits, his personal acquaintance, especially in Maryland, was very large, and few even observant travellers could enter more accurately into details of localities and points of interest all over the world than he. To have heard his descriptions and comments upon Westminster Hall, the inns of court, the Temple and the like, no one, however

familiar with these places of interest by personal observation, could believe that he only spoke from books and hearsay, and that he had never been in London. He could give you more particular information about Paris than a hundred visits could impart to ordinary persons. Of New York he would talk, and as correctly too, as if he had been personally familiar with its hotels, its streets and laws, and its public institutions. The towns and even villages of the West, with all their quaint and provincial peculiarities, he could describe with perfect accuracy. And as to his own city of Baltimore, though perhaps he was more rarely than any man in it seen upon its streets, yet he knew everybody's history, every improvement that was in progress, and was fully posted upon every event, great or small, that transpired. Indeed he was even something of a gossip, if we consider the extent and character of his information, though he was in no respect one for any purpose of making improper use of this kind of knowledge. His mind was always active and even greedy for food, and if he could not satisfy it with grave subjects, he was content to feed it with small ones.

CHAPTER XIII.

Mr. McMahon's private life—Comments on speculation and gaming—The romance and unhappiness of his bachelor life—Extremes of despair and cheerfulness—His despondent nature—A legacy of love and its use.

THESE extraordinary qualities and possessions were in the main attributable to his powers of memory, of which mention has already been made, and to his faculty of attention. The latter never deserted him, and he was observant of all things around him, and noticed every occurrence or remark, however apparently trivial. No language could be employed which would better express the character of Mr. McMahon's mind in this particular than that used by Dr. Johnson to convey his conceptions of Savage, and every one who knew McMahon will, I am sure, be impressed with its peculiar application and fitness. Dr. Johnson said of Savage : " His mind was in an uncommon degree rigorous and active. His judgment was accurate, his apprehension quick, and his memory so tenacious, that it was frequently observed he knew what he had learned from others in a short time better than those by whom he was informed ; and could frequently recollect incidents, with all their combination of circumstances, which few would have regarded at the present time, but which the quickness of his apprehension impressed upon him. He had the peculiar felicity that his attention never deserted him ; he was present to

every object, and regardful of the most trifling occurrences. He had the art of escaping from his own reflections, and accommodating himself to every new scene. . . . He mingled in the cursory conversation with the same steadiness of attention as others apply to a lecture ; and amid the appearance of thoughtless gayety lost no new idea that was started, nor any hint that could be improved."

As he was familiar with modern places of note and interest, so was he equally at home in his knowledge of the nations, cities, and people of the past. His classical knowledge was varied and correct, and he continued to his death to cultivate and enlarge it. Those who have heard him speak in public, or in conversation, can attest that, though without pedantry, how beautifully he could adorn his language by apt quotations from the ancient classics !

It may be mentioned, to Mr. McMahon's credit, that he never embarked on any speculations of any description. He has been often heard to inveigh against the practice, especially stock speculations, as corrupting to both public and private morals, and his stern example was always found in support of his teachings. It is not to be denied that in his earlier years he was an occasional frequenter of the gaming tables, and doubtless, like all who are addicted to that pernicious habit, lost large sums of money. But before he reached mature manhood this demoralizing passion had been entirely subdued, and no doubt his eloquent denunciations in his after years against the evils of gaming have deterred many a young man from rushing into this vortex of destruction. He always maintained, however, that the habit of private gambling was even less pernicious and demoralizing in its general results than the passion for speculation.

He was equally opposed to the modern system of *life insurance*. Its tendency, he maintained, upon those persons who were to be mainly benefited by its results—those without property or means—was to depreciate the value of life and to cause them to look to death as a measure of relief to a suffering family far more effectual than any effort of theirs in life ; in other words, as a system which had for its object speculation in human existence, and having its origin in a seductive device on the part of capital, by which to allure the unwary and needy to contribute out of their slender means to already swollen coffers. This, no doubt, is a just commentary upon the system, when even conducted with fairness and integrity. How much more should it be the object of denunciation when conducted, as is generally the case, in fraud and deception ! *

There are some romantic episodes in Mr. McMahon's history, mention of which ought not to be omitted. It is well known he was regarded by his friends as a confirmed bachelor. It was equally true he was not insensible to the tender passion for the gentler sex. He had one or two unfortunate affairs of the heart, which, more than any one ever imagined, influenced, if they did not darken, his future pathway of life. In his earlier years, being sensitive and inordinately vain, these reverses, caprices, disappointments, or call them what you will, had a marked and controlling effect upon his character and disposition, and the morbid impress which was thus given to them went deepening on through his whole life, and, it may be

* The author doubtless here intended a just criticism upon a system much abused at the time of this writing, but whose fair working and honest administration formed no part of his censure, as his own example in adopting proved.—ED.

safely affirmed, gave to him the semblance of a character which he never received from his God !

His personal vanity could be easily aroused by complimentary notices from the female sex. His weakness never exhibited itself so conspicuously as on occasions when informed of some praise or compliment bestowed by a lady. It was therefore not surprising, with such a high appreciation of the value of woman's commendation, that he should have stood in awe of the sex. He was like a bashful boy, who, while running over with admiration and warmth for female charms, was yet afraid or ashamed to declare his passion. He could ascend to the highest pinnacle in his struggles of ambition and show no signs of trepidation, and encounter physical dangers in every shape without fear, yet his heart would falter and his eloquent tongue grow powerless when confronted by female virtue and beauty. The feat which is generally supposed to be so easy of accomplishment—matrimony—he had hardly moral courage enough to attempt, much less to consummate. Consequently in his affairs of the heart his early life was a succession of fruitless loves and shameful retreats.

While by these disasters of the heart he may have lost in the account of personal and domestic happiness, it is equally true that the balance in favor of ambition, fame, wealth, and public usefulness was thereby greatly increased. While *matrimony* may be the best and surest road to private virtue and domestic happiness, it does not always as surely lead to distinction, usefulness, and wealth ; and young men, in settling this momentous question, would do well to weigh maturely these suggestions, and no better illustration of their importance could be found than is furnished by the private character and history of Mr. McMahon.

Certainly he was not a happy man. How far an eligible matrimonial alliance might have influenced the tenor of his life in this particular it is hard to say. Once in one of his gloomy and desponding moods a friend playfully said to him, "Mac, a wife and nine small children would have been a sure preventive against such a state of feeling." He smiled, and mournfully replied, "Probably you are right."

His case furnishes another striking illustration that neither the advantages of nature, fortune, health, friends, and intellectual greatness are of themselves sure sources of happiness. He who by his professional ability and by his sound philosophy, wisdom, and generosity could rescue others from misfortune and misery, yet possessed no means in himself to bring repose and peace of mind to his own bosom. As far as an intimate personal intercourse with Mr. McMahon could develop the inward working of his heart, it would appear that few men had as little cause for a disturbed conscience as he. In his dealings with his fellow-man he was scrupulously exact. In his long professional career it would be difficult to point to one single act with which he could reproach himself. He sedulously abstained, as has been shown, from all cases which were not based upon sound principles of justice, and was never known to persecute innocence or weakness. The errors or faults of his life which were committed under moments of passion or excitement he promptly and amply allowed for in an after period, and wherever he had committed a wrong, whether unwittingly or purposely, no dread of *shame*, no *false pride*, could deter him from rendering open and abundant redress. It would be difficult to imagine possessions better calculated to secure a quiet conscience than those, except it be "that peace which the world cannot give," and

this it would seem had indeed, for some inscrutable purpose, been withheld. His philosophy of life was false. He looked for perfection of character in others, and even in himself, to which in this existence we are not to attain. He used to say "that life and the world were failures." Of course in this he meant to speak only from the standpoint he occupied, and did not design any blasphemous reproaches or criticisms toward our great Father. Notwithstanding his great intellectual achievements, he seemed yet to think that he had failed to attain the prize of life which rightfully belonged to him. The promise of his early years which was written upon his brow he supposed had not been fulfilled, and he almost spoke in tears when he referred to the errors, disappointments, failures, and agonies which he morbidly imagined made up the sum of his life. How unjust he was to himself! How poorly he estimated those hours of labor and toil which, from his boyhood to his bed of death, so lifted him above the common class of men! How he depreciated the noble, intellectual fruits of his life—his exalted integrity and his triumphs over temptations! Where was his pride, where his vanity, that they should so completely have deserted him in these hours of sadness?

From this depressed state he would again rally under business or the pleasant society of friends, and so readily arise to heights of cheerfulness, and even hilarity. How often, indeed how usual it is, to find these apparent inconsistent peculiarities of nature—extreme cheerfulness and despondency combining in the same person and alternately triumphing!

These extremes of temper seemed to have been born in Mr. McMahon, and to have followed him through his whole life. Even in the usual bright and sunny days of youth, clouds of melancholy would overhang

him, and he would often brood over imaginary ill in silence and solitude for days at a time. Unhappy man ! How often, doubtless, would he have exchanged all his splendid intellectual and material possessions with the humble peasant in return for a light heart and buoyant spirits ! How little the world realizes the weight of unpublished sorrows, real or imaginary, that so often oppress the hearts of men and women, frequently, too, under the light of a smiling face !

At times these fits of melancholy would reach such a pitch that he would fall into deepest gloom, and tread upon the precipice of despair. Indeed, on more occasions than one his friends have had reasons to fear that he would plunge into suicide as the only relief for this condition of morbid melancholy, and Hamlet did not talk more wisely and philosophically, and it may be added that no one could talk more piously, upon this dark subject, than he often did. Doubtless he was at last controlled by the blessed influence which his pious parents had implanted in his heart in the days of his childhood, as well as by his early Christian education.

He said truthfully that suicide was not *murder* in any sense, and therefore could be no sin against the sixth commandment. Murder is to rob a man of the first and most inestimable of God's gifts—life—that which you can never restore ; but that it becomes a very different question when one throws away his own life ; he destroys that which is his own. The sin of suicide consists in attempting to thwart God's providences. If he afflicts you with troubles, you should bear them with resignation and submission, and not seek to defeat his will by a base attempt to retreat from life.

In one other instance, but much later in life, he gained the affections of a lady of Charles County, a

Miss Mitchell, but by no effort of his own. Her passion, if such it was, was either not reciprocated by him, or, for other prudential reasons, he did not respond to it. She had been his client in an important lawsuit, and thus she was brought into frequent and intimate association with him. Wholly unexpectedly, she became deeply attached to him, and at her death, which soon followed, she left the proof of the sincerity of her affection and regards in a legacy of upward of \$20,000. Miss Mitchell was a devout Catholic, and as she had no very near kin, it was expected, as she had often expressed such an intention, that the bulk of her estate would go to the Church. But this new love or temporary infatuation, obscured even her pious affection and zeal for her religion, and defeated, but, as will presently be shown, only for a time, the direction which she had originally intended her estate to take.

Mr. McMahon received and appropriated the legacy, but with a fixed purpose as to the ultimate disposition he would make of it. When he made his will he determined that the sudden and impulsive passion of Miss Mitchell for him, and which she had manifested in such a substantial manner, should not defeat the long, well-formed, and noble purpose she had previously adopted in regard to her estate, and accordingly he restored it with its accumulated interest, amounting to upward of \$30,000, to the Catholic Church, as its proper and final depository. This was certainly an instance of noble and uncommon generosity, and of delicate and exquisite taste on the part of Mr. McMahon, and shows a refined sensibility and romantic nature. What better evidence could he have left behind of his claims to be ranked among the first order of gentleman in the broad and proper sense of the term?

An extract of his will follow which speaks in his own

solemn language the view he had taken of the subject, and gives us an illustration of the quiet and peaceful working of that great mind :

“ EXTRACT OF J. V. L. MCMAHON’S WILL.

“ In making the above disposition of the above-mentioned property, devised to me by Miss Mitchell, I have no guide as to what her wishes or intentions would have been beyond myself. She gave the property to me absolutely, and under circumstances evincing the highest regard for me, and awaking the most profound sensibilities of my nature, mingled with the utmost respect for her memory, and the highest admiration of her character. Thus made, I could by no act of mine cast a doubt upon the propriety of her act in making that bequest ; and I accepted it with the intention of making, at my decease, such a disposition of it as would most strongly manifest my respect for her, and my appreciation of her bequest. It is scarcely necessary for me to say that during her life she never even intimated to me her intention to make the devise.

“ After her decease there was found among her papers a paper with blanks which had not been filled up, and which she had signed without filling them up ; and in which, after stating ‘ that she had manifested her regard and confidence for —— by bequeathing to him the whole of her property,’ she expressed her full confidence that he would provide for her father during his life, and make suitable provision for him if he survived the devisee. Having seen the draftsman of this paper, who was also the draftsman of her will, I learned from his statements that, after the preparation of this paper, she declared to him that she did not intend to impose any obligation upon her devisee, as she had entire confidence that he would take care of her father ; and that upon her expressing a doubt whether she would ever sign it, he then suggested to her to sign it in blank, so that her devisee might know her wishes on that subject. This paper, with the written statement to the above effect of the gentleman who drew it, and the will, as also that of the gentlemen who found it at her residence, in Charles County, will be found among my papers.

“ How I justified her confidence in me by taking care of her father during his life it is not for me to say. Not a wish or a desire with reference to her property beyond those indicated by the devisee to myself, . . . and in the paper above referred to, exists to guide me ; and as the intended beneficiary of her estate, it is my desire

and intention at my decease to make such disposition of it as will, while it accomplishes a *public* good, redound to her honor, and evince my regard for her memory, by bestowing it for the purpose of educating, and ushering properly into life, the unprotected female orphan, and by soliciting for this purpose the society for which she had indicated a preference in one of the bequests of her will ; and as a proper accompaniment to said bequest, I also give and bequeath to said ' Protectors of St. Mary's Orphan Female School in the City of Baltimore' the portrait of Miss Mitchell in my possession, to be placed in some suitable place in their school."

CHAPTER XIV.

Retirement from practice—His social evenings—The fruits of his labors—The Legislature of 1861 and the "Board of Public Safety"—Mr. McMahon's declining health and his distressing malady—Last correspondence—His death—Conclusion.

FOR a few years previous to the breaking out of our late civil war he had almost entirely withdrawn from the practice of his profession, only occasionally giving written opinions, and rarely appearing in court.

During this period his time was passed in comparative seclusion among his books and his friends. He was rarely even seen upon the streets, or in any public places. His rooms at the Eutaw House in the evening were the resort of his friends and admirers. Some went to enjoy his varied and sprightly conversation, while others, particularly members of the bar, went to consult him upon questions of law that from time to time arose in their practice.

It was a remarkable fact that during this period the fruits of McMahon's legal knowledge was seen and felt at almost every term of court, in almost every county of the State, through the members of the bar who had previously consulted him upon important questions. Nor was this practice confined to the younger lawyers, but the wisest and most learned of our country bars did not feel ashamed to acknowledge that they could draw from this source information which would throw light upon any subject; and indeed every one, court

and bar, regarded Mr. McMahon as the safest and wisest oracle which they could consult upon legal questions, and for the reason that he never gave any other than well-matured opinions upon even the most unimportant points. None ever left him, who came upon such missions, disappointed. His "coterie" approached nearer the old clubs of London in the days of Dr. Johnson than any thing we usually see in this country, not on account of what his visitors contributed, but by reason of what *they* received from his vast storehouse of learning, wit, and anecdote.

It may not be out of place to recur here to McMahon's abhorrence of the modern club system of America. He never would become a member of one. He used to style them fashionable restaurants and gambling saloons, where gastronomic and animal attainments were the tests of promotion and superiority, rather than the possession of intellectual accomplishments.

The club system was originally founded in England, and even among more ancient people, for the purpose of intellectual pleasure and improvement and social enjoyment, and while wine and viands were often introduced as an incident of the main object, they were never made, as now, the chief end of such associations.

It may be safely affirmed that no source has been more fruitful of demoralization among the higher circles of society, especially among the young men, than our modern fashionable clubs, which have in view only bodily gratification. They have destroyed in a great degree the pleasures of home, the family circle, the integrity and fidelity of husbands, and rendered simple social hospitality as a thing of the past.

When the war came it completely overwhelmed Mr. McMahon. He had reached that time of life—three-

score—and had been stricken by a bodily infirmity, and when he realized that he could take no efficient part in the great struggle that was upon us, that wise counsel and an eloquent tongue which were the only weapons that were left him were powerless against the logic of arms ; and imagining at least that he foresaw in the result the downfall of his country and the death of civil liberty, of which he had been all his life such a votary, his manhood forsook him, and in despondency he sought a retirement from which he never emerged.

During the special session of the Legislature at Frederick, in April, 1861, at the beginning of the war, Mr. Coleman Yellott, Senator from Baltimore city, introduced a bill to create a " Board of Public Safety," and John V. L. McMahon was named in the bill as one of the board. The object of this measure was decidedly revolutionary. The law proposed to vest in this board almost absolute power, civil and military. Nothing during those troublous times so startled the public mind as this bold movement. The warmest friends of the South, and even the advocates of secession, paused, drew back, and finally declared their resistance to this assault, as it was deemed, upon civil liberty, and the Union men and the halting neutrals became frantic in their opposition to the measure. Indeed, it may be affirmed that nothing during the war—not even the firing upon " The Flag " at Fort Sumter—so aroused the Union spirit and inflamed the passions of the populace in Maryland.

The measure failed, and we are left in doubt how far the name of Mr. McMahon was used in this connection with his assent. The following letter of Mr. Wallis in reply to one from him will settle that point, as it will also vindicate the Baltimore delegation in the Legislature from any connection or sympathy with the

proposed measure, notwithstanding their subsequent suffering in Fort Warren was as much owing to their supposed sympathy with it as from any other cause :

HOUSE OF DELEGATES, FREDERICK, MD., }
May 4, 1861. }

“ JOHN V. L. MCMAHON, ESQ.

“ DEAR SIR : I have just received your favor of yesterday, and communicated its contents to Mr. Yellott, as requested. The bill has not yet passed the Senate, and I think will be recommitted. It cannot pass our House, and our own delegation is unanimous against it, upon constitutional grounds. It was introduced by Yellott, without consultation, and has been unfortunate and ill-advised to the last degree in its effects both upon the Legislature and the people. It was not generally supposed that you would accept the place. I regret, however, that your physical afflictions should form any part of the reasons which induce you to decline it.

“ Very respectfully yours,

“ S. T. WALLIS.”

One cause of his partial withdrawal from active life previous to the war was a malady of his eyes, which at first rendered it difficult, and subsequently impossible, for him to discharge the duties of business. This disease increased with advancing years, and soon he became virtually blind—that is, he could no longer read or write, or even safely walk alone. The peculiarity and depth of this affliction, as considered by himself, could not be better expressed than in his own touching language, contained in a letter to a friend at Annapolis,* written while he was sojourning at Dayton, the names and dates in which are omitted :

DAYTON, May . . . 1870.

“

“ MY DEAR SIR : Various causes have concurred to delay my reply to yours of 7th inst. for a day or two. It was addressed to me at Cumberland, which place I left a year since, and this caused some delay in its receipt. When received, it found me enjoying a visit from my old friend, Purser Ware, who is still with me, and

* To the Author.—ED.

my necessary attention to him compelled a still further delay. Add to this my own condition, and you will, I think, readily excuse my failure to reply at once.

“ For your very kind invitation to visit you at Annapolis, I beg you to accept my most grateful acknowledgments. Nothing could afford me more pleasure than to be permitted to meet you again, and again to hold with you such talks as we were wont to have in the olden times, and it would require talks of weeks to exhaust the materials which the eventful years since we parted would supply. It would greatly add to this pleasure to have this reunion with you in the ancient city, endeared to me by so many associations and recollections, and where so many of the happiest hours of my life were passed. It comes back to my memory, associated, it is true, with my most arduous professional labors, but of the great labor there I can truly say *labor ipse voluptas*. I therefore deeply regret that my present condition would not permit me to undertake such a journey at this period, and that I am, therefore, compelled to decline the present acceptance of your very kind invitation. In answering your inquiries as to my health, etc., I can almost say with Æneas, *Infandum jubes renovare dolorem*. As it regards my general health, the inquiry can be readily and almost cheerfully answered. During the four years that have elapsed since I left Baltimore my general health has been for the most part good, and I may say much better than in former years. And friends who have visited me insist that my appearance exhibits more health and youth than in former years. So far, so good. But when I come to that wonderful disease of brain and vision that has so long afflicted me, then begins the trouble, and it is indeed one which no law gauge can describe, ‘and none but itself can be its parallel.’ It would require a volume to describe the changes through which it has passed, and the many new phases it has assumed since I left B—. Imagine that the atmosphere around you is at all times, night and day, in a state of oscillating or swinging motion before you and around ; imagine that this oscillating atmosphere before and around you is during all bright days filled with colorless vapors, and music swinging rapidly to and fro before you ; imagine that in all dark days by the light of the evening, and in the darkness of the night, you are surrounded by thick fleece-like color clouds of every variety and combination of the brightest and most brilliant colors, and all in rapid motion around you ; imagine that you go to bed every night surrounded, when the lights are extinguished, by a perfect color storm of such clouds of the most dazzling and the brightest hues, filled

with ever variety of meteoric appearance from the fire-fly and the star to the sheet lightning and the comet shooting and flashing in every direction—Imagine all this and I might almost add multiply by ten, and you will then have some idea of the later phases of this brain disease which during some periods of its aggravation seems to keep the brain laboring like a steam-engine. You will readily understand that in such a situation locomotion is not only not very pleasant, but really a very difficult undertaking. I would be glad to hear from you again whenever it is convenient; and when you write you will let me know something about such of my old friends as are still at A—. I presume that my friend Mr. — is still there; and if so, be pleased to present to him my best regards. Governor —, I am told has removed to B—. You know who were my friends in olden times, and to such of them as are still at A— you will present my best respects. I infer from something read to me not long since that Mr. — is still at A—, and if so I desire to be remembered to him. The last four years have wrought such marvellous changes in men and things that I scarcely know, after long separation, ‘who is who,’ and whom I could venture to salute as an old friend. Judge — was one of those with whom I was on very friendly relations, notwithstanding our political differences, and I would fain hope that nothing has occurred to change those relations. If you think so, remember me to him.

“With my best wishes for the health and happiness of yourself and your family,

“I am sincerely yours,

“J. V. L. MCMAHON.”

Notwithstanding this severe affliction, he is represented to have been cheerful at times, especially when in company of old friends; but in his declining days his general temper was melancholy, solitudinous, and even morose. Withal he had much to be thankful for. Possessing an ample competency, he was surrounded in turn by devoted sisters and other relations, and sympathizing friends were always at hand to contribute to his wants and comforts. Under such circumstances, with an unclouded intellect, with the rich stores of his mind to furnish food for his daily reflec-

tions, and with excellent general health, he had enough for which to be grateful to his Heavenly Father, and we have no reason to doubt but that he died with praise and thanks in his heart and upon his lips to the great author of his being, of his intellect, and of his worldly possessions.

Physical infirmity increased upon him, and his friends saw that his (last) end was near.

The gentleman, Dr. McKay, his brother-in-law, at whose house he died, writes: "Mr. McMahon retained his mental vigor up to the last days of his life. His final illness, if it can be properly so called, occurred about a week before his death, and consisted in a sudden breaking down of the whole nervous system, and he sank gradually and almost imperceptibly, without pain or suffering, into the calm sleep of death." He died and was buried in Cumberland, in 1871, in his seventy-first year.

Thus, after seventy years of conflict with the world—covered with the scars and wounds of the battle of life, many of which, it is true, were self-inflicted by means of a sensitive nature—he returned at last to the spot where the bud of life first unfolded itself, where was planted in his bosom, amid maternal pains and tears, all that was noble in his character, and like a warrior laid himself down to take his last sleep before the morning of his final rising.

No more shall we behold his manly form or hear the ring of his clarion voice. Never again shall we grasp his hand in the warmth of friendship. He has embarked upon the solemn, silent ocean of eternity, and already has passed beyond the reach of human vision.

THE END.

ERRATA.

- On page 22, eleventh line from top, for "David M. *Perrine*," read David M. *Perine*.
- On page 22, thirteenth line from bottom, for "Mr. *Pennie*," read Mr. *Perine*.
- On page 38, second line in heading of chapter, for "J. Q. Adams' Brilliant Speeches and a duel," read J. Q. Adams.—Brilliant Speeches and a Duel.
- On page 42, eighth line from bottom, for *dule*, read duel.
- On page 62, eighteenth line from top, for "George P. Kennedy," read John P. Kennedy.
- On page 69, sixteenth line from top, for "Judge *Tregle*," read Judge Tingle.
- On page 140, eighth line from top, omit word "(last)."

On page 69, twenty second line
for William W. Handy read
William W. Handy

